

61—25.4(557B,252J) Sanctions.

25.4(1) *Statement of charges.* A membership campground registration may be denied, suspended or revoked or a penalty of not more than \$5000 may be imposed or a combination of suspension or revocation and penalty may be imposed for any of the reasons set forth in Iowa Code section 557B.6. If any action of this type is taken, a representative of the consumer protection division shall mail by certified mail a statement of charges to the applicant or registrant. The applicant or registrant has 30 calendar days from the date of mailing the statement of charges to request a hearing. Requests for hearing must be filed within the 30-day time period or the applicant or registrant will not be permitted to contest the matter. Such requests must be filed at the address specified in rule 25.1(557B). Within this 30-day period, the applicant or registrant may also file an answer or other responsive pleading to the statement of charges.

25.4(2) *Hearings.* If a request for hearing is filed, the contested case will be referred to an independent administrative law judge. Upon request, the Iowa department of inspections and appeals will establish a time and provide an administrative law judge to conduct the contested case. A representative of the consumer protection division will prosecute these cases on behalf of the state.

25.4(3) *Notice of hearing.* The applicant or registrant shall be mailed by certified mail a notice of hearing which will include:

- a. The date, time, and place of hearing.
- b. A statement that the party may be represented by legal counsel.
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- d. A statement that the respondent has the right to appear at a hearing and be heard.
- e. A reference to the statute or rules involved.
- f. A copy of the statement of charges referred to in subrule 25.4(1).

25.4(4) *Prehearing conferences.* The administrative law judge either on the administrative law judge's own motion or at the request of either party may hold a prehearing conference which shall be scheduled not less than two days prior to the hearing. Notice by ordinary mail shall be given to each party of the date, time, and place of the prehearing conference.

25.4(5) *Informal settlement.* Nothing in these rules shall be construed to discourage or limit the parties in their right to pursue an informal settlement of the contested case. Any such settlement shall be subject to review and approval by the attorney general.

25.4(6) *Failure by respondent to appear.* If a respondent, upon whom a notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the administrative law judge may proceed with the conduct of the hearing. The results of the hearing shall be binding to the same extent as if respondent had been present.

25.4(7) *Conduct of hearings.* Hearings under this rule will be held pursuant to the Iowa administrative procedure Act. These hearings will generally be conducted according to the following format, subject to modification at the discretion of the administrative law judge:

- a. The representative of the consumer protection division may make an opening statement.
- b. The respondent(s) may make an opening statement or may elect to reserve the opening statement until just prior to the presentation of evidence by the respondent.
- c. The evidence on behalf of the consumer protection division is presented.
- d. The evidence on behalf of the respondent(s) is presented.
- e. Rebuttal evidence, if any, on behalf of the consumer protection division is presented.
- f. Rebuttal evidence, if any, on behalf of the respondent(s) is presented.
- g. Each party may make a closing argument.

25.4(8) *Continuances.* No ex parte continuance shall be granted to any party.

25.4(9) *Interlocutory appeal.* Any party to a contested case may seek an interlocutory appeal on a procedural question with the attorney general by filing a timely request.

25.4(10) *Discovery and subpoenas.* The provisions of Iowa Code section 17A.13 relating to discovery and subpoenas shall govern in contested cases held pursuant to these rules.

25.4(11) *Proposed decision.* The administrative law judge who presides over the case will render a proposed decision which shall be in writing or stated in the record. The decision may include any of the following:

- a. Dismissal of the charges against respondent.
- b. Denial of an application for registration.
- c. Suspension of a registration for a specified period.
- d. Revocation of a registration.
- e. Imposition of a penalty not to exceed \$5000.

25.4(12) Further review. Any party, including the consumer protection division, who is adversely affected by a proposed decision, may seek further review with the attorney general by complying with the following procedure:

- a. A request for further review must be filed with the attorney general within 20 days of the date of the administrative law judge's decision.
- b. Within ten days after filing the request for further review, the requesting party must file written exceptions to the proposed decision of the administrative law judge and must set forth the specific relief requested as well as all of the grounds upon which the request for relief is based. The party seeking further review may also file a written brief and argument along with its exceptions.
- c. The opposing party has 14 days following service of the exceptions to file a responsive brief and argument if desired.

25.4(13) Notification of decision. All parties to a contested case shall be promptly furnished with a copy of any final or proposed decision either by personal service or by certified mail.

25.4(14) Judicial review. A party who has exhausted administrative remedies may seek judicial review of the decision pursuant to the Iowa administrative procedure Act.

25.4(15) Sanctions against individual membership camping operators relating to unpaid child support. The following shall apply to the applications or registrations of individual membership camping operators under Iowa Code chapter 557B:

a. *Registration permit denial.* Pursuant to Iowa Code chapter 252J, the attorney general shall deny an application for registration under Iowa Code chapter 557B of a membership camping operator, if the membership camping operator is an individual and the attorney general has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the attorney general with a withdrawal of the certificate of noncompliance.

b. *Registration permit suspension or revocation for nonpayment of child support.* Pursuant to Iowa Code chapter 252J, the attorney general shall suspend or revoke the registration of a membership camping operator under Iowa Code chapter 557B, if the membership camping operator is an individual and the attorney general has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the attorney general with a withdrawal of the certificate of noncompliance.

c. *Notice of suspension, revocation or denial of registration based on nonpayment of child support.* The notice required by Iowa Code section 252J.8 shall be served upon the registrant or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Rules of Civil Procedure 56.1. Alternatively, the registrant or applicant may accept service personally or through authorized counsel.

d. *Effective date of suspension, revocation or denial based on nonpayment of child support.* The effective date of suspension, revocation or denial of registration, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the registrant or applicant.

e. *Obligation of registrants and applicants to notify attorney general concerning nonpayment of child support.* Registrants and applicants shall keep the attorney general informed of all court actions, and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, and shall provide the attorney general copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

f. *Payment of fees following suspension or revocation.* If the attorney general suspends or revokes a permit pursuant to Iowa Code chapter 252J, a nonrefundable permit fee of \$200 for reinstatement must be paid by the applicant to the attorney general before a permit will be reinstated.

g. Calculating effective dates of suspension, revocation or denial of registration based on nonpayment of child support. In the event a registrant or applicant files a timely district court action following service of an attorney general notice pursuant to Iowa Code sections 252J.8 and 252J.9, the attorney general shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the attorney general to proceed. For purposes of determining the effective date of suspension or revocation, or denial of the issuance or renewal of a registration permit, the attorney general shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

h. Relation to other subrules of this rule. The requirements of subrule 25.4(15) shall be in addition to those stated in subrules 25.4(1) to 25.4(14). However, the provisions of subrules 25.4(1) to 25.4(14) shall not apply to any sanctions imposed against individual membership camping operators relating to unpaid child support. Sanctions imposed against individual membership camping operators relating to unpaid child support shall be governed by the provisions of subrule 25.4(15) and Iowa Code chapter 252J.