

Kansas Administrative Regulations

Public Employee Relations Board

Article 2.—Procedure

84-2-2. Hearings.

(a) General provisions.

(1) Hearings may be conducted by the board, or any member or members thereof, or any member of its staff or other individual designated by the board.

(2) The hearing shall be limited to pertinent matters necessary to determine questions relating to the immediate controversy.

(b) Notice of hearing.

(1) Following the filing of a petition, if it appears to the board or its designee that further proceedings are warranted, a notice of hearing, at a place fixed therein, shall be issued and served upon each of the parties and upon any known individuals or employee organizations claiming to represent any employees directly affected, and, except by agreement of the parties or in unusual circumstances, at a time not less than ten days after the service of such notice.

(2) Any such notice of hearing may be withdrawn or amended prior to the hearing by the presiding officer upon reasonable notice to the parties.

(c) Conduct of hearings.

(1) It shall be the duty of the presiding officer to inquire fully into all matters at issue and to obtain a full and complete record.

(2) The presiding officer may continue the hearing from day to day or adjourn it to a later date or another place, by announcement thereof at the hearing or by other appropriate notice.

(d) Motions.

(1) All motions made during a hearing shall be made part of the record of the proceedings.

(2) All motions and answers other than those made during a hearing shall be made in writing to the board, or its designee, pursuant to the provisions of 84-2-1(b), and shall

briefly state the relief sought. Answers, if any, shall be filed with the board or its designee within seven days after service of the pleading, unless the board or its designee directs otherwise. Motions shall be ruled upon by the board, its designee or the presiding officer who may decide to hear oral argument or testimony relating to the motion. The parties shall be notified of the purpose of the hearing and of the time and place of oral argument or the taking of testimony. Rulings and orders determinative of all matters presented at the hearing shall be issued by the presiding officer. All such motions and rulings shall be part of the record of the case.

(e) An objection not made before the presiding officer shall be deemed waived unless the failure to make such objection shall be excused by the presiding officer because of extraordinary circumstances.

(f) Introduction of evidence; the rights of parties at hearings.

(1) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the presiding officer shall have the power to call and examine witnesses, and to introduce into the record documentary and other evidence. A party shall, upon offering an exhibit into evidence at a hearing, simultaneously furnish copies to all other parties, unless otherwise ordered by the presiding officer. Witnesses shall be examined orally under oath. Compliance with the technical rules of evidence shall not be required. Stipulations of fact may be introduced in evidence with respect to any issue.

(2) The refusal of a witness at any hearing to answer any question which has been ruled proper by the hearing officer shall be noted in the record. Such refusal shall go to the weight of previous testimony, but shall not be grounds for striking all previous testimony of the particular witness.

(3) Misconduct at any hearing before the board or presiding officer shall be grounds for summary exclusion from the hearing. As used herein, "misconduct" means conduct which disrupts or interferes with the orderly administration of proceedings under the act, or conduct which evinces refusal to obey or disregard a lawful order or ruling of the hearing officer. Misconduct, if of an aggravating character and engaged in by an attorney or other representative of a party, shall be grounds for suspension or disbarment from further practice before the board or its designee. Such suspension or

disbarment shall be ordered only after the board, presiding officer or another party in the proceedings files a complaint in writing with the board alleging the acts of misconduct committed by the attorney or other representative of a party, the attorney or other representative of a party has been given thirty days notice of the charges, and the attorney or other representative of a party is given an evidentiary hearing before the entire board.

(g) Upon appointment by the board of a presiding officer to perform any of its functions, the parties must file within three days any objection to the person appointed. The objection must contain a statement setting forth the reasons for the party's position.

(h) Findings of fact; conclusions of law; initial order. No later than 30 days after the conclusion of the hearing, the presiding officer shall issue findings of fact, conclusions of law, and an initial order unless the 30 day period is waived or extended with the written consent of all parties, or for good cause shown. Such findings of fact, conclusions of law, and initial order shall be in writing and shall contain, but need not be limited to a statement of the case findings of fact, and conclusions of law and initial order to the board. All parties and members of the board shall be served with the presiding officer's decision and initial order.

(i) Appeal Procedure.

(1) Review of initial orders shall be initiated pursuant to and controlled by K.S.A. 77-527 through K.S.A. 77-529.

(2) If the board grants review of an initial order, and unless otherwise extended by the board, the appellant shall have 30 days from the date of service of the board's order setting forth the issues to be reviewed to file its brief with the board. Appellee shall have thirty (30) days from the date of service of appellant's brief in which to file its response brief. No reply briefs will be allowed. Oral arguments will be allowed at the next regularly scheduled board meeting after service of appellee's brief. Briefs shall specifically set forth the issues to be reviewed and transcript references must be cited in the brief where a transcript is available.

(Authorized by and implementing K.S.A. 75-4323(c)(d)(4), 75-4327(c)(d)(e), 75-4332(b)(c)(d)(e); and 75-4334(a); effective, E-72-29, Sept. 29, 1972; effective Jan. 1, 1973; amended May 1, 1975; amended July 30, 1990.)

***** Authenticated Kansas Administrative Regulation *****