

Kansas Administrative Regulations

Agricultural Labor Relations Board

Article 2.—Procedure

12-2-2. 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. In the event a duly-appointed hearing examiner is unable to continue a hearing, such hearing may be reconvened at a later date, when the appointed examiner is available, or with the consent of all parties a hearing officer may be substituted.
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 that further proceedings are warranted, the board or its agent shall issue and serve upon each of the parties and upon any known individuals or employee organizations claiming to represent any employee directly affected, a notice of hearing, at a place fixed therein, and, except by agreement of the parties or in unusual circumstances, at a time not less than seven days after the service of such notice.
2. Any such notice of hearing may be withdrawn or amended prior to the beginning of the hearing by the board.

c. Conduct of hearings

1. It shall be the duty of the board or its agent to inquire fully into all matters at issue and to obtain a full and complete record.
2. The board may, at its discretion, 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.
3. Motions:

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

(b) All motions and answers thereto other than those made during a hearing shall be made in writing to the board, pursuant to the provisions of K.S.A. 44-829(a), shall briefly state the relief sought, and shall be accompanied by affidavits setting forth the grounds upon which they are based. Answering affidavits, if any, shall be filed with the board within five working days after service of the motion, unless the board or its agent directs otherwise. The board or its agent shall rule upon motions filed with it. It may hear oral argument or testimony thereon, in which case it shall notify the parties of the time and place of such argument or for the taking of such testimony. The board shall issue rulings and orders to decide all matters in hearings before it and all such motions and rulings and orders thereon shall be part of the record of the proceedings.

4. An objection not duly made before the board shall be deemed waived unless the failure to make such objection shall be excused by the board or its agent because of extraordinary circumstances.

5. Introduction of evidence; rights of parties at hearings:

(a) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the board or its agent 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 excused by the board or its agent. Witnesses shall be examined orally under oath. Compliance with the technical rules of evidence shall not be required for any hearing other than a hearing conducted pursuant to K.S.A. 44-829. Stipulations of fact may be introduced into evidence with respect to any issue.

(b) 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 previous testimony of the particular witness.

(c) Misconduct at any hearing before the board shall be grounds for exclusion from the hearing. As used herein, "misconduct" shall mean conduct which disrupts or

interferes with the orderly administration of proceedings under the act, or conduct which evinces a refusal to obey or disregard a lawful order or ruling of the hearing officer.

6. Upon appointment by the board of an agent to perform any of its functions, the parties shall file within three days any objection to said appointment. The objection shall contain a statement setting forth the reasons for the party's position. Such objection shall be confined to the person appointed, not the appointment in and of itself.

7. Findings of fact; conclusions of law; recommendations:

(a) As expeditiously as possible after the conclusion of the hearing, the hearing officer shall issue his or her findings of fact, conclusions of law, and recommendations to the board. Such findings of fact, conclusions of law, and recommendations shall be in writing and shall contain, but need not be limited to:

(1) A statement of the case and preliminary procedures before the board or the hearing officer,

(2) findings of fact,

(3) conclusions of law and recommendations to the board. The board shall convene in open meeting to consider the case no later than thirty days after such date as the hearing examiner has made his or her recommendations available.

(Authorized by K.S.A. 44-823(c), 44-829(a), K.S.A. 1977 Supp. 44-820(d); effective May 1, 1978.)

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