

Kansas Administrative Regulations

Department of Health and Environment

Article 3.—Hearings

28-3-7. Conduct of hearings not under Kansas administrative procedure act.

(a) In all hearings not conducted under the provisions of the Kansas administrative procedure act, the hearing officer shall be guided by rules of evidence as employed by the courts of the state of Kansas, but may relax the rules to the extent the hearing officer deems appropriate, keeping always in mind that the judicially developed rules of evidence have been developed as procedures most likely to obtain the truth.

(b) In hearings appealing an order or action by the secretary or the secretary's designee, the requesting party shall open and close. In all other hearings, there shall be no requirements as to order of procedure. The hearing officer shall consider evidence in the order which appears most likely to reveal the facts.

(c) A record of proceedings may be kept by the hearing officer by electronic recording, notes made by the hearing officer or both. A transcript of the record need not be made unless specifically ordered by the hearing officer or in cases in which the party requesting a transcription pays its cost. Each party to a hearing may cause the proceedings to be recorded by a certified court reporter, providing the requesting party bears the expense of same.

(d) The provisions of this regulation shall apply to all hearings conducted under authority of statutes other than the Kansas administrative procedure act and shall be supplemental to any statutory requirements. At the conclusion of each hearing, the presiding or hearing officer shall prepare a written report stating findings of fact, any appropriate conclusions of law, and any further comments which the presiding or hearing officer deems appropriate. A copy of the report shall be mailed to the parties and filed with the secretary.

(Authorized by and implementing K.S.A. 75-5625; effective May 1, 1986.)