

Kansas Administrative Regulations

Kansas Public Disclosure Commission

Article 7.—Proceedings

19-7-4. Hearings, appointment of presiding member.

(a) Who shall conduct, appointment of presiding member. Hearings and rehearings shall be conducted by hearing commissioners designated by the chairperson. Such commissioners may consist of the commission as a whole or a committee thereof. If a committee of hearing commissioners is appointed, it shall consist of not less than three (3) members, not more than a majority shall be of the same political party. One hearing commissioner shall be designated as presiding member by the chairperson. The hearing commissioners and presiding member shall be designated when a final determination of probable cause is made or in a reasonable time thereafter. The hearing commissioners shall have full authority to review and overrule any decision of the presiding member regarding the procedure of the preconference hearing, hearings, and rehearings, including decisions to admit or exclude testimony or other evidence, and to rule upon all motions and objections.

(b) Order of procedure. In hearings, the petitioner, complainant, or other party having the burden of proof, as the case may be, shall open and close, unless otherwise directed by the presiding member. In proceedings where the evidence is peculiarly within the knowledge or control of another participant, the order or presentation may be varied by the presiding member.

(c) Presentation by the petitioners or parties. Petitioners or parties shall have the right of presentation of evidence, cross-examination, objection and motion. The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay. When objections to the admission or exclusion of evidence before the presiding member are made, the grounds relied upon shall be stated briefly. Formal exceptions are unnecessary and shall not be taken to rulings thereon.

(d) Oral examination. Witnesses whose testimony is to be taken shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

(e) Fees of witnesses. Witnesses subpoenaed by the commission shall be paid the same fees and mileage as are paid for like services in civil actions in the district court.

(f) Duties of the presiding member. Duties of the presiding member include, but are not limited to, the following:

- (1) administer the oath;
- (2) rule on proof;
- (3) regulate the hearing;
- (4) exclude people from the hearing;
- (5) hold conferences for simplification of issues;
- (6) dispose of procedural requests;
- (7) authorize and set times for filing of briefs;
- (8) grant continuances;

(9) and take any other action consistent with the purpose of relevant law administered by the commission and consistent with these rules.

(g) Stipulations. Written stipulations may be introduced in evidence, if signed by the persons who seek to be bound by them, or by their attorneys. Oral stipulations may be made on the record at open hearings or rehearings.

(h) Waiver of objections. Any objection not timely made before the presiding member shall be deemed waived unless the failure or neglect to urge such objection shall be excused for good cause by the presiding member.

(i) Continuances and adjournments. The presiding member may postpone a scheduled hearing or continue a hearing from day to day or adjourn it to a later day or to a different place by announcement at the hearing or by appropriate notice to all petitioners or parties.

(j) Burden of proof. Affirmative findings of fact by the commission shall be based on clear and convincing evidence.

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

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