

**13-35-104 Powers and duties of the advisory board and the executive director.**

- (1)
  - (a) Except as provided in Subsection 13-35-106(3), the advisory board shall make recommendations to the executive director on the administration and enforcement of this chapter, including adjudicative and rulemaking proceedings.
  - (b) The executive director shall:
    - (i) consider the advisory board's recommendations; and
    - (ii) issue any final decision by the department.
- (2) The executive director, in consultation with the advisory board, shall make rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3)
  - (a) An adjudicative proceeding under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (b) In an adjudicative proceeding under this chapter, any order issued by the executive director:
    - (i) shall comply with Section 63G-4-208, whether the proceeding is a formal or an informal adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act; and
    - (ii) if the order modifies or rejects a finding of fact in a recommendation from the advisory board, shall be made on the basis of information learned from the executive director's:
      - (A) personal attendance at the hearing; or
      - (B) review of the record developed at the hearing.

Amended by Chapter 382, 2008 General Session