

Effective 5/10/2016

58-1-109 Presiding officers -- Content of orders -- Recommended orders -- Final orders -- Appeal of orders.

- (1) Unless otherwise specified by statute or rule, the presiding officer for adjudicative proceedings before the division shall be the director. However, pursuant to Title 63G, Chapter 4, Administrative Procedures Act, the director may designate in writing an individual or body of individuals to act as presiding officer to conduct or to assist the director in conducting any part or all of an adjudicative proceeding.
- (2) Unless otherwise specified by the director, an administrative law judge shall be designated as the presiding officer to conduct formal adjudicative proceedings in accordance with Subsection 63G-4-102(4), Sections 63G-4-204 through 63G-4-207, and 63G-4-209.
- (3) Unless otherwise specified by the director, the licensing board of the occupation or profession that is the subject of the proceedings shall be designated as the presiding officer to serve as fact finder at the evidentiary hearing in a formal adjudicative proceeding.
- (4) At the close of an evidentiary hearing in an adjudicative proceeding, unless otherwise specified by the director, the presiding officer who served as the fact finder at the hearing shall issue a recommended order based upon the record developed at the hearing determining all issues pending before the division.
- (5)
 - (a) The director shall issue a final order affirming the recommended order or modifying or rejecting all or any part of the recommended order and entering new findings of fact, conclusions of law, statement of reasons, and order based upon the director's personal attendance at the hearing or a review of the record developed at the hearing. Before modifying or rejecting a recommended order, the director shall consult with the presiding officer who issued the recommended order.
 - (b) If the director issues a final order modifying or rejecting a recommended order, the licensing board of the occupation or profession that is the subject of the proceeding may, by a two-thirds majority vote of all board members, petition the executive director or designee within the department to review the director's final order. The executive director's decision shall become the final order of the division. This subsection does not limit the right of the parties to appeal the director's final order by filing a request for agency review under Subsection (8).
- (6) If the director is unable for any reason to rule upon a recommended order of a presiding officer, the director may designate another person within the division to issue a final order.
- (7) If the director or the director's designee does not initiate additional fact finding or issue a final order within 20 calendar days after the date of the recommended order of the presiding officer, the recommended order becomes the final order of the director or the director's designee.
- (8) The final order of the director may be appealed by filing a request for agency review with the executive director or the executive director's designee within the department.
- (9) The content of all orders shall comply with the requirements of Subsection 63G-4-203(1)(i) and Sections 63G-4-208 and 63G-4-209.

Amended by Chapter 238, 2016 General Session