

63G-4-209 Default.

- (1) The presiding officer may enter an order of default against a party if:
 - (a) a party in an informal adjudicative proceeding fails to participate in the adjudicative proceeding;
 - (b) a party to a formal adjudicative proceeding fails to attend or participate in a properly scheduled hearing after receiving proper notice; or
 - (c) a respondent in a formal adjudicative proceeding fails to file a response under Section 63G-4-204.
- (2) An order of default shall include a statement of the grounds for default and shall be mailed to all parties.
- (3)
 - (a) A defaulted party may seek to have the agency set aside the default order, and any order in the adjudicative proceeding issued subsequent to the default order, by following the procedures outlined in the Utah Rules of Civil Procedure.
 - (b) A motion to set aside a default and any subsequent order shall be made to the presiding officer.
 - (c) A defaulted party may seek agency review under Section 63G-4-301, or reconsideration under Section 63G-4-302, only on the decision of the presiding officer on the motion to set aside the default.
- (4)
 - (a) In an adjudicative proceeding begun by the agency, or in an adjudicative proceeding begun by a party that has other parties besides the party in default, the presiding officer shall, after issuing the order of default, conduct any further proceedings necessary to complete the adjudicative proceeding without the participation of the party in default and shall determine all issues in the adjudicative proceeding, including those affecting the defaulting party.
 - (b) In an adjudicative proceeding that has no parties other than the agency and the party in default, the presiding officer shall, after issuing the order of default, dismiss the proceeding.

Renumbered and Amended by Chapter 382, 2008 General Session