

**UNIFORM RULES OF PROCEDURE CONCERNING BOARDS AND COMMISSIONS
WITHIN ITS
JURISDICTION**

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Sec. 21a-9-1. Applicability

(a) The uniform hearing procedures shall apply to all boards and commissions within the Department of Consumer Protection pursuant to Section 21a-6 of the General Statutes.

(b) As used herein, "agency" means the boards or commissions transferred to the Department of Consumer Protection pursuant to Section 21a-6 of the General Statutes.

(c) As used herein, "certificate" includes the whole or part of any Department of Consumer Protection permit which the Department issues under authority of the General Statutes and which (1) authorizes practice of the profession by certified persons but does not prohibit the practice of the profession by others, not certified, (2) prohibits a person from falsely representing that he is certified to practice the profession unless the person holds a certificate issued by the Department and (3) requires as a condition of certification that a person submit specified credentials to the Department which attest to qualifications to practice the profession.

(d) As used herein, "License" includes the whole or part of any Department of Consumer Protection permit, approval, or similar form of permission which the Department issues under authority of the General Statutes and which requires; (1) practice of the profession by licensed persons only, (2) demonstration of competence to examination or other means and meeting of certain minimum standards and (3) enforcement of standards by the Department or Agency.

(e) As used herein, "registration" includes the whole or part of any permit which the Department issues under authority of the General Statutes and which; (1) requires persons to place their names on a list maintained by the Department before they can engage in the practice of a specified profession or occupation, (2) does not require a person to demonstrate competence by examination or other means and (3) may be revoked or suspended by the Agency for cause.

(f) As used herein, "practitioner" includes any person possessing a certificate, license, or registration which the Department issues under authority of Section 21a-8 (5) of the General Statutes pertaining to the boards and commissions within the Department of Consumer Protection pursuant to Section 21a-6 of the General Statutes.

(Effective February 22, 1984.)

Sec. 21a-9-2. Opportunity to show compliance

(a) No revocation, suspension, annulment or withdrawal of any certificate, license or registration is lawful unless prior to the institution of agency proceedings, the agency gave notice by mail to the practitioner of facts or conduct which warrant the intended action, and the practitioner was given the opportunity to show compliance with all lawful requirements for the retention of the certificate, license or registration.

(b) The notice of the opportunity to show compliance shall contain:

(1) A statement of the time, date and method for responding to the agency;

(2) A reference to the statute(s) or regulation(s) allegedly violated;

(3) A clear and concise factual statement sufficient to inform each respondent of the acts or practices alleged to be in violation of the law. This requirement may be met by including a copy of the investigation report with the notice; and

(4) A statement that each respondent may be represented by counsel.

(c) The agency may request the respondent to attend a compliance conference as the method for responding to the agency. Compliance conferences shall be informal and the rules of evidence shall not apply. Compliance conferences may be recorded but need not be transcribed.

(d) The agency may, in its discretion, designate a person, other than a member of said agency, to preside at such compliance conference. After said compliance conference, the designated presiding officer shall report in writing his or her recommendations to the agency.

(Effective February 22, 1984; Amended August 23, 1993.)

Sec. 21a-9-3. Summary suspension procedures

If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a certificate, license, or registration may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

(Effective February 22, 1984.)

Sec. 21a-9-4. Contested cases

(a) A "Contested Case" means a proceeding, including but not restricted to rate-making price fixing and licensing, in which the legal rights, duties or privileges of a party are required by statute to be determined by an agency after an opportunity for hearing or in which a hearing is in fact held, but does not include hearings referred to in Section 4-168 of the Connecticut General

Statutes.

(b) When an agency has reason to believe there has been a violation of the statute(s) or regulation(s) it administers, it shall issue a complaint by certified mail to the respondent.

(c) The notice in contested cases shall contain:

(1) A statement of the statutory authority and jurisdiction for instituting the proceedings;

(2) A reference to the specific statutory section(s) or regulations alleged to be violated;

(3) A short and plain statement of the matters asserted sufficient to inform each respondent of the acts or practices alleged to be in violation of the law;

(4) Notice of the time, date, place and nature of the hearing; and

(5) A statement that each respondent may, if he desires, be represented by an attorney.

(d) (1) If a respondent can show a need for additional time to prepare a defense to the alleged violations, an extension of time may be granted by moving the scheduled hearing to a later date. The granting of such a request is within the complete discretion of the agency or such presiding officer as has been designated by the agency.

(2) If a respondent can show that the complaint is unclear or ambiguous as to the nature of the acts in violation of the law, he may file with the agency a written motion for a more detailed statement of the nature of the charges against him. The granting or denial of such a motion is within the complete discretion of the agency or such presiding officer as has been designated by the agency.

(3) Any pleading which a Respondent wishes considered by the agency prior to the convening of a contested case proceeding may be filed up to seven days prior to the hearing date. If a Respondent can show a need for additional time to submit documentation, an extension of time may be granted. The granting of such a request is within the complete discretion of the agency or such presiding officer as has been designated by the agency.

(Effective September 22, 1988.)

Sec. 21a-9-5. Conduct of adjudicative hearings in contested cases

(a) Hearings in contested cases shall be presided over by the appropriate agency, its designated hearing panel, or hearing officer.

(b) Said agency, designated hearing panel or hearing officer shall have the power to:

(1) Regulate the course of the hearing and the conduct of the parties and their counsel therein;

(2) Insure that all testimony is given under oath;

(3) Rule upon offers of proof and to receive evidence;

(4) Consider and rule upon all motions; and

(5) Require any additional written and/or oral argument.

(c) Each party in an adjudicative hearing shall have the right to present evidence, cross examine witnesses, enter motions and objections, and assert all other rights essential to a fair hearing.

(d) Intervention by interested parties shall be permitted in any contested case, as provided by applicable statute or otherwise within the discretion of the agency, designated hearing panel or hearing officer.

(e) All adjudicative hearings in contested cases shall be recorded and shall be conducted in accordance with the provisions of chapter 54 of the General Statutes.

(Effective February 22, 1984.)

Sec. 21a-9-6. Transcript of the proceedings

(a) At the close of the reception of evidence, the respondent or any other party of record may file a written request addressed to the agency for a written transcript of the proceedings. If no such written request is filed, the agency may order that a written transcript be prepared.

(b) If any party of record desires a copy of the transcript, it will be made available to him upon written request and the tendering of the appropriate cost.

(Effective February 22, 1984.)

Sec. 21a-9-7. Informal disposition in contested cases

(a) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default. A respondent may agree to enter an agreement containing a consent order in lieu of a hearing on the issue(s). Such agreement may be negotiated by the respondent and the complaint counsel or authorized representative of said agency provided that said authorized representative shall not be a member of said agency. The acceptance of a consent agreement is within the complete discretion of the agency and prior to

exercising such discretion the agency may designate a member independently to confer with the parties and then present to the agency hearing panel a recommendation whether to accept or reject such agreement, provided that in order to avoid prejudice the reasons forming the basis for such recommendation shall not be disclosed to such panel, and such member making the recommendation shall not be a member of the agency hearing panel rendering the decision.

(b) A consent agreement shall contain:

- (1) An admission of all jurisdictional facts;
- (2) An express waiver of the right to seek judicial review or otherwise challenge or contest the validity of the order;
- (3) An express waiver of the requirement that the decision of said board or commission contain findings of fact and conclusion of law;
- (4) A provision that the complaint may be used in construing the terms of the order;
- (5) A statement that the order contained therein shall have the same force and effect as an order entered after a full hearing and shall become final when issued;
- (6) A statement that said order shall not be effective unless and until accepted and approved by said agency;
- (7) The signature of each respondent or his attorney; and
- (8) The signature of said agency chairman-accepting and approving the consent agreement.

(Effective February 22, 1984.)

Sec. 21a-9-8. Proposal for decision

When in a contested case a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, the decision if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefore, and of each issue of fact of law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties by written stipulation may waive compliance with this section.

(Effective February 22, 1984.)

Sec. 21a-9-9. Final decision in a contested case

(a) The final decision or order in a contested case shall be rendered by an agency after due consideration of the entire record. If no written request was filed for the preparation of a transcript, a final decision may be rendered at any time following the close of the hearing. If a transcript was requested in writing, the final decision may be rendered within a reasonable time following preparation of the transcript.

(b) A final decision or order adverse to a party in a contested case shall be in writing or stated in the record.

(c) Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the text of the final decision or order shall be sent by mail to each of the respondents and respondent's counsel, and to any other party of record.

(d) The agency shall proceed with reasonable dispatch to conclude any matter pending before it and shall render a final decision in all contested cases within ninety days following the close of evidence and filing of briefs in such proceedings.

(Effective February 22, 1984.)

Sec. 21a-9-10. Petitions

(a) Any interested person may petition the commissioner of consumer protection requesting the promulgation, amendment or repeal of a regulation pursuant to Section 4-174 of the General Statutes and Section 19-170a-12 of the Regulations of Connecticut State Agencies pertaining to an agency within the jurisdiction of the Department of Consumer Protection. Only written petitions will be considered. The petition shall set forth clearly the reasons for its submission.

(b) Petitions for declaratory rulings on the applicability of any statutory provision within the Department of Consumer Protection pertaining to boards or commissions shall be submitted in writing to the appropriate board or commission pursuant to Section 4-176 of the General Statutes. A copy of such request shall also be simultaneously made to the Commissioner of Consumer Protection.

(Effective February 22, 1984.)

Sec. 21a-9-11. Inconsistent regulations

Unless precluded by law the regulations appearing as Sections 21a-9-1 through 21a-9-10, inclusive, shall take precedence over any other conflicting or inconsistent regulation pertaining to hearing procedures of all boards and commissions within the Department of Consumer

Protection pursuant to Section 21a-6 of the General Statutes.

(Effective February 22, 1984.)