

1 **R277. Education, Administration.**

2 **R277-102. Adjudicative Proceedings.**

3 **R277-102-1. Authority and Purpose.**

4 (1) This rule is authorized by:

5 (a) Utah Constitution Article X, Section 3, which vests the general control and
6 supervision of public education in the Board,

7 (b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with
8 its duties and responsibilities under the Utah Constitution and state law; and

9 (c) Section 63G-4-203 which directs agencies to make rules regarding adjudicative
10 proceedings following the general designation of Board hearings as informal.

11 (2)(a) The purpose of this rule is to specify how adjudicative proceedings are conducted
12 before the Board.

13 (b) This rule does not govern Board actions exempted under Section 63G-4-102.

14 **R277-102-2. Definitions.**

15 (1) "Agency head" means the Chairperson of the Board.

16 (2) "Default" means the failure of a party to an administrative proceeding to meet the
17 requirements or timelines of the proceeding.

18 (3) "Presiding officer" has the same meaning as set forth in Subsection 63G-4-103(h).

19 **R277-102-3. Designation of Adjudicative Proceedings as Formal or Informal.**

20 (1) The Board initially designates all proceedings conducted before the Board as
21 informal in accordance with Subsection 63G-4-202(1).

22 (2) The presiding officer designated for a proceeding may convert an informal
23 proceeding to a formal proceeding and vice versa under Subsection 63G-4-202(3).

24 **R277-102-4. Procedures for Informal Adjudicative Proceedings.**

25 (1) The Board shall hold a hearing where required in accordance with Subsection 63G-
26 4-203(b) if the Board receives a timely request for a hearing.

- 27 (2) The agency head shall designate a presiding officer for each hearing.
28 (3) The Superintendent shall make appropriate arrangements for the hearing including:
29 (a) determining the date of the hearing; and
30 (b) designating the hearing location and other necessary information.
31 (4) The presiding officer shall establish timelines for the hearing.
32 (5) The Superintendent may delegate the hearing arrangements and procedures to the
33 presiding officer.
34 (6) The Superintendent may, on a case by case basis, determine if an informal hearing
35 may be held electronically.
36 (7) The Superintendent shall maintain a record of all aspects of an informal adjudicative
37 proceeding.

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39 **R277-102-5. Procedures for Formal Adjudicative Proceedings.**

- 40 (1) If the presiding officer designates a proceeding as formal, the presiding officer may
41 add any of the following procedures, as appropriate, to the hearing procedures:
42 (a) responsive pleadings;
43 (b) discovery for parties;
44 (c) the right to subpoena witnesses;
45 (d) intervention by third parties; and
46 (e) an electronic recording of the complete proceeding.
47 (2) For both informal and formal adjudicative proceedings, the presiding officer shall
48 have discretion in managing and making procedural and evidentiary decisions throughout the
49 hearing process.

50 **R277-102-6. Default.**

- 51 (1) A presiding officer or hearing officer designated for a formal or informal hearing may
52 recommend a default to the Board consistent with deadlines set by the presiding officer and
53 the provisions of Section [63G-4-209](#).

54 (2) A party in default may seek to have a default set aside consistent with Subsection
55 63G-4-209(3) and timelines set by the presiding officer.

56 **R277-102-7. Recommendation to Board.**

57 (1) The presiding officer shall submit a written hearing report, including findings of fact,
58 conclusions of law, and recommended action to the Board for all informal and formal
59 proceedings.

60 (2) The Board shall take final action following the conclusion of an informal or formal
61 proceeding no later than 120 days from the receipt of the request for agency action unless the
62 presiding officer grants additional time for the hearing upon motion or stipulation of the parties.

63 (3) The Board's final decision following acceptance of written findings is the final
64 administrative decision on the issue, subject to a request for reconsideration under Section
65 63G-4-302.

66 **KEY: administrative procedures, rules and procedures**

67 **Date of Enactment or Last Substantive Amendment: May 23, 2019**

68 **Notice of Continuation: April 4, 2014**

69 **Authorizing, and Implemented or Interpreted Law: 63G-4-101 through 63G-4-302; 63G-4-**
70 **405; 63G-4-503; 53E-3-401(4); Art X Sec 3**