

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 to conduct adjudicative proceedings  
12 to review Board actions ~~[are conducted before the Board]~~ where review is provided by ~~[statute~~  
13 ~~or rule]~~ law or where there is a compelling reason for a hearing to fully and fairly facilitate the  
14 Board's decision making process.

15 (3) This rule does not ~~[govern Board actions exempted under Section 63G-4-102]~~ apply  
16 to actions for which separate adjudicative procedures are specifically provided for in statute or  
17 rule.

18 **R277-102-2. Definitions.**

19 (1) "Agency head" means the Board Chair~~[person of the Board]~~.

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

22 (3) "Presiding officer" has the same meaning as set forth in Subsection [63G-4-](#)  
23 [103\(1\)\(h\)](#).

24 (4) "Utah Administrative Procedures Act" or "UAPA" means [Title 63G, Chapter 4,](#)  
25 [Administrative Procedures Act.](#)

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

27 (1) ~~[The Board initially designates all proceedings conducted before the Board as~~

28 ~~informal in accordance with Subsection 63G-4-202(1).]~~ The Board shall conduct all requests  
29 for a hearing as informal adjudicative proceedings under UAPA unless another statute or rule  
30 specifically designates alternative procedures.

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

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

34 (1)(a) The Board shall hold a hearing ~~[where required in accordance with Subsection~~  
35 ~~63G-4-203(b)]~~ if the Board receives a timely request for a hearing.

36 (b) If no timeline is provided a party seeking Board review shall submit a request for a  
37 hearing within 30 days of the action subject to review.

38 (2) The agency head shall designate a presiding officer for each hearing.

39 (3)(a) The agency head may designate a hearing panel, consisting of the presiding  
40 officer designated under Subsection (2) and Board members, to hear the evidence and make  
41 recommendations to the full Board.

42 (b) If the agency head designates a hearing panel, the presiding officer shall chair the  
43 hearing and make rulings on motions and evidentiary issues.

44 (c) If the agency head designates a hearing panel, the hearing panel shall make all  
45 findings of fact, conclusions of law, and recommendations to the Board.

46 (4) The Superintendent shall make appropriate arrangements for the hearing including:

47 (a) determining the date of the hearing; and

48 (b) designating the hearing location and other necessary information.

49 (5) The presiding officer shall establish timelines for the hearing and shall determine if  
50 a hearing is open or closed to the public.

51 (6) The Superintendent may delegate the hearing arrangements and procedures to the  
52 presiding officer.

53 (7) The Superintendent may, on a case by case basis, determine if an informal  
54 ~~[hearing]~~ adjudicative proceeding may be held electronically.

55 (8) The Superintendent shall maintain a record of all aspects of an informal adjudicative  
56 proceeding.

57

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

59 (1)(a) If the presiding officer designates a proceeding as formal, the presiding officer

60 ~~[may add any of the following procedures, as appropriate, to the hearing procedures:~~

61 ~~— (a) responsive pleadings;~~

62 ~~— (b) discovery for parties;~~

63 ~~— (c) the right to subpoena witnesses;~~

64 ~~— (d) intervention by third parties; and~~

65 ~~— (e) an electronic recording of the complete proceeding.] shall conduct the proceedings~~

66 in accordance with Sections 63G-4-204 through 63G-4-208.

67 (b) The presiding officer may allow discovery at the request of the parties to the extent

68 necessary to allow all parties access to relevant evidence.

69 (2)(a) For both informal and formal adjudicative proceedings, the presiding officer shall

70 have discretion in managing and making procedural and evidentiary decisions throughout the

71 hearing process.

72 (b) In ruling on matters raised by the parties, the presiding officer may consider, but is

73 not bound by, the Utah Rules of Evidence and the Utah Rules of Civil Procedure.

74 **R277-102-6. Default.**

75 (1) A presiding officer ~~[or hearing officer]~~ designated for a formal or informal hearing

76 may recommend a default to the Board consistent with deadlines set by the presiding officer

77 and the provisions of Section [63G-4-209](#).

78 (2) A party in default may seek to have a default set aside consistent with Subsection

79 [63G-4-209](#)(3) and ~~[timelines]~~ [deadlines](#) set by the presiding officer.

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

81 (1)(a) The presiding officer shall ~~[, in consultation with the hearing panel, if applicable,]~~

82 submit a written hearing report formalizing the hearing recommendation, to the Board and the  
83 parties, including findings of fact, conclusions of law, and recommended action to the Board  
84 for all informal and formal proceedings within 20 days of the hearing.

85 (2)(a) The Board may:

86 (i) approve the recommendation under Subsection (1); or

87 (ii) ~~approve~~ issue an alternate written determination and action based on the findings  
88 of fact made in the hearing report, if the Board disagrees with the proposed outcome in the  
89 hearing report.

90 (b) The Board shall take final action following the conclusion of an informal or formal  
91 proceeding [no later than 120 days from the receipt of the request for agency action unless the  
92 presiding officer grants additional time for the hearing upon motion or stipulation of the parties:]  
93 within 60 days of receiving the hearing report under Subsection (1).

94 (3) The Board's [final] decision [following acceptance of written findings] is the final  
95 administrative decision on the issue, subject to a request for reconsideration [under] applying  
96 the procedures of Section [63G-4-302](#).

97 (4) The Superintendent shall respond to any request for reconsideration in accordance  
98 with Subsection [63G-4-302\(3\)](#).

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

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

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

103 **Authorizing, and Implemented or Interpreted Law: [Title 63G, Chapter 4](#); [53E-3-401\(4\)](#); [Art](#)**

104 **[X Sec 3](#)**