



State of Utah

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Department of Administrative Services
Office of Administrative Rules

KENNETH A. HANSEN
Interim Executive Director, Department
of Administrative Services

July 22, 2016

Angela Stallings, Associate Superintendent, Policy and Communication
Utah State Board of Education
250 E 500 S
Salt Lake City UT 84111-3272

Dear Ms. Stallings:

I write in response to your email message dated July 20, 2016. I understand your question to be:

Must Board of Education administrative rule hearings requested under the provisions of Subsection 63G-3-302(2)(b) be held before the entire Board or even a quorum of the Board?

The answer is no. These hearings require only a hearing officer and an agency representative.

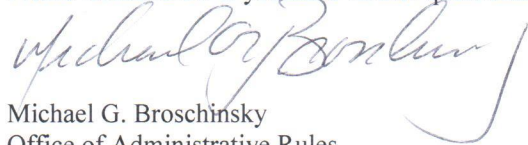
Subsection 63G-3-302(2)(b) directs an agency to hold a hearing if a request is submitted to the agency by "10 interested persons, or an interested association having not fewer than 10 members...." This subsection, and its parent section, speaks to the question of when a hearing must be held. There is no discussion of the procedures to follow during the hearing.

Subsection 63G-3-402(1)(m) directs the Office of Administrative Rules to "...require state agencies to comply with...hearing procedures...." Subsection 63G-3-402(2) then directs the Department of Administrative Services (the parent department for the Office) to establish by rule "all...hearing procedures necessary to make rules...." Hearing procedures are given in Rule R15-1.

Subsection R15-1-5(2)(a) requires that the agency head appoint a hearing officer. Subsection R15-1-5(4)(b) requires that the agency also have a representative present "who is familiar with the rule at issue and can respond to requests for information...."

These two individuals, the hearing officer and the representative, are the only two individuals required to be at the hearing representing the agency. There is nothing in Title 63G, Chapter 3 (the Utah Administrative Rulemaking Act) or Title R15 (rules of the Office of Administrative Rules) that would require an administrative rule hearing regarding a Board of Education rule to be held before the entire Board or a quorum of the Board.

Please let me know if you have further questions.



Michael G. Broschinsky
Office of Administrative Rules