

2012 Kansas Statutes

77-514. Presiding officer. (a) For all agencies, except for the state court of tax appeals, the agency head, one or more members of the agency head or a presiding officer assigned by the office of administrative hearings shall be the presiding officer.

(b) Any person serving or designated to serve alone or with others as presiding officer is subject to disqualification for administrative bias, prejudice or interest.

(c) Any party may petition for the disqualification of a person promptly after receipt of notice indicating that the person will preside or promptly upon discovering facts establishing grounds for disqualification, whichever is later.

(d) A person whose disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination.

(e) If a substitute is required for a person who is disqualified or becomes unavailable for any other reason, any action taken by a duly appointed substitute for a disqualified or unavailable person is as effective as if taken by the latter.

(f) If the office of administrative hearings cannot provide a presiding officer, a state agency may enter into agreements with another state agency to provide presiding officers to conduct proceedings under this act.

(g) Notwithstanding any quorum requirements, if the agency head of a professional or occupational licensing agency is a body of individuals, the agency head, unless prohibited by law, may designate one or more members of the agency head to serve as presiding officer and to render a final order in the proceeding.

(h) Except as otherwise provided by law, in any proceeding under this act, a person shall not be eligible to act as presiding officer, and shall not provide confidential legal or technical advice to a presiding officer in the proceeding, if that person:

(1) Has served in an investigatory or prosecutorial capacity in the proceeding or a proceeding arising out of the same event or transaction; or

(2) is supervised or directed by a person who would be disqualified under paragraph (1).

History: L. 1984, ch. 313, § 14; L. 1995, ch. 175, § 2; L. 1997, ch. 182, § 92; L. 2004, ch. 145, § 38; L. 2009, ch. 109, § 7; July 1.

Revisor's Note:

Section was also amended by L. 2004, ch. 145, § 39, but that version was repealed by L. 2009, ch. 109, § 29.