

RULE NO. 10 – Hearings

001. Location.

Hearings shall be held in the State of Nebraska at a location designated by the Director of the Board.

Source: Section 76-541 and 84-913

002. APPEARANCE BEFORE THE BOARD.

Practice of law before the Board shall be governed by the statutes of the State of Nebraska and the decisions of the Supreme Court of the State of Nebraska. Nothing herein contained shall prevent any party from transacting his or her own business before the Board. In the event of an appearance of some person on behalf of a party, the person appearing must either be admitted to the practice of law before the Supreme Court of the State of Nebraska or be admitted to practice law before the supreme court of any other state and be associated with a person admitted to practice law before the Supreme Court of the State of Nebraska.

Source: Section 76-541 and 84-913

003. PARTIES

Parties appearing before the Board shall be designated as follows:

003.01. Applicants.

In all proceedings involving applications for registration or renewal under the Abstracters Act, as amended, the party or parties on whose behalf the application is made.

003.02. Respondents.

Party or parties ordered by the Board to appear in a proceeding, including complaint proceedings.

003.03. Complainants.

Any party filing a complaint under the provisions of the Abstracters Act, as amended.

003.04. Intervenors.

Any person or party having an interest in any proceeding before the Board, and who voluntarily enters into the proceeding with the leave of the Board.

Source: Section 76-541 and 84-913

004. PLEADINGS.

Any written application or protest thereto; any petition or intervention or answer or reply thereto; any complaint or any answer or reply thereto; or any motion or affidavit in support thereof, shall all constitute pleadings for the purposes of these Rules.

Source: Section 76-541 and 84-913

005. COMPLAINTS.

A complaint, where applicable, may be filed by a person, organization, corporation or the Board on its own motion. The complaint shall set forth the names of the party complainant, the name of the parties against whom the complaint is made, a concise description of the complaint or alleged violation, and any other facts necessary. Complaints must be in writing, sworn to and signed by the complainant. Complaints by the Board on its own motion shall be signed by the Chairman.

Source: Section 76-541 and 84-913

006. PROCEDURE FOR HEARING NOT ASSOCIATED WITH COMPLAINTS.

All hearings which do not pertain directly to a complaint filed pursuant to Section 76-551 to 76-553, R.R.S. Nebraska, as amended, shall be conducted by the Board with the Director acting as hearing examiner. The hearing examiner will, among other things, open the proceedings, enter into the record the notice of hearing, take appearances, hear the evidence, rule on motions and objections, interrogate, if deemed necessary, any witness and close the proceedings. Hearings conducted by the Board will, unless circumstances dictate otherwise, be incorporated with regular meetings of the Board and a quorum shall be present.

Source: Section 76-541 and 84-913

007. PROCEDURE FOR HEARING ON COMPLAINT.

All hearings which directly pertain to a complaint filed pursuant to Sections 76-551 to 76-553, R.R.S. Nebraska, as amended, shall be conducted by a hearing examiner appointed by the Board. The hearing examiner may be any person except a voting member of the Board. The hearing examiner shall have the power to compel the attendance of witnesses and to administer oaths. The hearing examiner will, among other things, open the proceedings, enter into the record the notice of hearing, take appearances, hear the evidence, rule on motions and objections, interrogate, if deemed necessary, any witness and close the proceedings. The hearing shall make in writing complete findings and recommendations to the Board.

Source: Section 76-541, 76-551 - 76-553 and 84-913

008. OPENING STATEMENTS, ORAL ARGUMENTS, BRIEFS.

Opening statements and oral argument following the close of presentation of evidence will not be permitted unless specifically requested by the Board or its hearing examiner. Any party wishing to submit a brief of the matter presented at any hearing may do so within the time allotted by the hearing examiners.

Source: Section 76-541 and 84-913

009. MOTIONS FOR CONTINUANCE.

Any party who desires a continuance shall file a motion with the Director of the Board. Such motion shall be in writing and it shall state the reasons why such continuance is necessary. All motions for continuance shall be filed at least five (5) calendar days prior to the date set for the hearing unless the party requesting the continuance can show good cause for the delay in filing. For good cause shown, the Director may grant a continuance.

Source: Section 76-541 and 84-913

010. MAILING OF ORDERS OF THE BOARD.

All orders of the Board, following the close of any hearing, shall be transmitted to the parties of record by certified mail. The orders of the Board shall contain findings, determinations and orders in the matter and shall be signed by all members concurring therein.

Source: Section 76-541 and 84-913

011. EVIDENCE.

The Board is not bound to follow the technical rules of evidence. Evidence shall be admissible which possesses probative value commonly accepted by reasonable men in the conduct of their affairs. Evidence which is cumulative or repetitions may be excluded by the Board or hearing examiner. Provided, however, the Board shall be governed by the statutes governing the administrative agencies of the State of Nebraska, Chapter 84, Article 9 of the Revised Statutes of Nebraska.

Source: Section 76-541

012. APPEAL PROCEDURE.

Any appeal of any decision or order of the Board may be judicially reviewed. Such review shall be wholly in accordance with the provisions of the Administrative Procedure Act of the State of Nebraska.

Source: Section 76-541 and 84-917

013. EXHIBITS: SOURCE.

Source: Section. 76-541 and 84-913

013.01. Detailed or Complex Exhibit.

When any exhibit consists of three (3) or more pages, each page shall be consecutively numbered. Any detailed or complex exhibits consisting of more than three (3) pages or with several distinct parts shall be prefaced with an index.

013.02. Consecutively Marked and Numbered.

Each exhibit shall be consecutively marked and numbered.

013.03. Copies of Official Files.

Any party desiring to introduce into evidence any part or parts of the official files shall obtain copies thereof in advance of hearing.

013.04. Availability of Copies of Exhibits.

Any party proposing to introduce exhibits into evidence into any proceeding before the Board shall furnish copies of exhibits to the opposing party and all Board Members. Failure to supply copies of said exhibit will cause it to be excluded from the hearing unless good and sufficient reason be shown by the party offering the same for the failure to supply copies.

013.05. Relevant Portions.

Relevant portions of books, papers, or documents shall be plainly designated and distinguished from all irrelevant portions before the relevant material may be offered into evidence.

014. SUBPOENAS.

Subpoenas requiring the attendance of witnesses will be issued by the Hearing Examiner, through the Director or such person designated in writing by the Director, upon written application of any party, in care of the Director and shall be delivered to the Director not later than fourteen (14) days prior to the scheduled hearing.

Source: Section 76-541 and 84-913

015. DEPOSITIONS.

Depositions used in proceedings before the Board are governed by the following Rules:

Source: Section 76-514 and 84-913

015.01. Timing of Deposition All depositions within this state shall be taken at least ten (10) days prior to the date of the hearing, and all depositions outside of this state shall be taken at least (15) days prior to the hearing date, except for good cause shown in writing.

015.02. Rules of Depositions

Dispositions shall be taken in accordance with the rules of civil procedure.

015.03. Official Taking Deposition.

The official taking the deposition shall promptly seal the same along with all exhibits in an envelope and send the same by registered mail to the Director of the Board. The deposition shall reach the Board, except for good cause shown, at least three (3) days prior to the date of hearing at which it is to be offered as evidence. The official taking the deposition; shall give prompt notice of its filing to all parties of record.

016. NOTICE.

In any hearing before the Board or before a Hearing Examiner duly appointed by the Board, the Director shall notify the registrant, applicant, or respondent, at least twenty (20) days prior to the date set for the hearing. Such notice shall be in writing and contain an exact statement of the charges against him or her and the date and place of hearing. Such notice may be served by personal delivery to the registrant, applicant or respondent or by registered or certified mail addressed to him or her at his or her last known business address as shown on the registration or application for registration.

Source: Section 76-514, 76-551 and 84-913

017. RECORDS.

In any hearing before the Board or before a Hearing Examiner duly appointed by the Board the Director shall cause a verbatim record of the testimony to be made. The respondent or applicant shall receive one copy of the record at no charge to him or her. Additional copies of the record shall be available to the respondent, applicant or any other person t a fee which shall equal the cost of reproduction and handling, as determined by the Director.

Source: Section 76-541 and 84-913

018. ADMINISTRATIVE RULES.

In all cases not covered by these Rules and Regulations, or when these Rules and Regulations shall be in conflict with the administrative Procedures Act, Sections 84-901 to 84-920, R.R.S. Nebraska, as amended, said Administrative Procedures Act shall control.