

6-000 PRACTICE AND PROCEDURE FOR HEARINGS IN CONTESTED CASES BEFORE THE DEPARTMENT

6-001 General Provisions

6-001.01 Definitions: The following definitions shall apply as used throughout these rules and regulations.

Contested case shall mean a proceeding before the Department in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after the Department hearing.

Department shall mean the Department of Social Services.

Ex parte communication shall mean an oral or written communication which is not on the record in a contested case with respect to which reasonable notice to all parties was not given. Ex parte communication shall not include:

1. Communications which do not pertain to the merits of a contested case;
2. Communications required for the disposition of ex parte matters as authorized by law;
3. Communications in a rate making or rule making proceeding; or
4. Communications to which all parties have given consent.

A hearing is an orderly proceeding before the Director or his/her representative. During the hearing a client, applicant, or his/her representative may present his/her case with or without the help of witnesses to show why an action or inaction should be corrected by the Department.

Hearing officer shall mean the person or persons conducting a hearing, contested case, or other proceeding pursuant to the Administrative Procedure Act, whether designated as the presiding officer, administrative law judge, or some other title designation.

Party means the person by or against whom a contested case is brought or a person allowed to intervene in a contested case.

Petition means the initial document filed by or with the Department that sets forth a claim and request for Department action or appeal from Department action or inaction.

## 6-002 Prohibitions Against Ex Parte Communications

6-002.01 Prohibitions; When Applicable: The prohibitions found in this section shall apply beginning at the time notice for hearing is given. The Department may designate an earlier time, but such earlier time shall be required to be set forth in the Department's rules of procedure.

### 6-002.02 Prohibitions; To Whom Applicable

6-002.02A Parties and Public: No party in a contested case or other person outside the Department having an interest in the contested case shall make or knowingly cause to be made an ex parte communication to the hearing officer or to a Department head or employee who is or may reasonably be expected to be involved in the decision making process of the contested case.

6-002.02B Persons in Decision Making Roles: No hearing officer or the Director or other employee who is or may reasonably be expected to be involved in the decision making process of the contested case shall make or knowingly cause to be made an ex parte communication to any party in a contested case or other person outside the Department having an interest in the contested case.

6-002.02C Investigators: Neither the Director nor any employee engaged in the investigation or enforcement of a contested case shall make or knowingly cause to be made an ex parte communication to a hearing officer or the Director or employee who is or may reasonably be expected to be involved in the decision making process of the contested case.

6-002.03 Disclosure of Contacts: The hearing officer, the Director or any other Department employee who is or may reasonably be expected to be involved in the decision making process of the contested case who receives or who makes or knowingly causes to be made an ex parte communication set forth in 465 NAC 6-002.02A through 6-002.02C shall file in the record of the contested case:

1. All such written communications;
2. Memoranda stating the substance of all such oral communications; and
3. All written responses and memoranda stating the substance of all oral responses to all the ex parte communications.

The filing shall be made within two working days of the receipt or making of the ex parte communication. Notice of the filing, with an opportunity to respond, shall be given to all parties of record. Filing and notice of filing shall not be considered on the record and reasonable notice for purposes of the definition of ex parte communication.

### 6-003 Intervention in a Contested Case

6-003.01 Intervention Allowed: Intervention in a contested case shall be allowed when the following requirements are met:

1. A petition for intervention must be submitted in writing to the hearing officer or designee at least five days before the hearing. Copies must be mailed by the petitioner for intervention to all parties named in the hearing officer's notice of the hearing.
2. The petition must state facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law.
3. The hearing officer or designee must determine that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

6-003.02 Petition for Intervention: The hearing officer or designee may grant a petition for intervention at any time upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

6-003.03 Conditions on Intervenor's Participation: If a petitioner qualifies for intervention, the hearing officer or designee may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Those conditions may include:

1. Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
2. Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and
3. Requiring two or more intervenors to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

6-003.04 Order on Petition for Intervention: The hearing officer or designee, at least 24 hours before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions and briefly stating the reasons for the order:

1. The hearing officer or designee may modify the order at any time, stating the reasons for the modification.
2. The hearing officer or designee shall promptly give notice of an order granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

6-004 Commencement of a Contested Case:

6-004.01 Filing of Petition and Request for Hearing: The contested case begins with the filing of a petition and request for hearing, if applicable, with the Department. The petition is the initial document filed by or with the Department that sets forth a claim and request for Department action or appeal from Department action or inaction. Form DA-6, "Notice and Petition for Fair Hearing," is available for filing an appeal to anyone who requests it at any office of the Department. (The Food Stamp Program uses notices with a tear-off section which may be used instead of Form DA-6.) Staff shall make every effort to help an individual who wishes to file an appeal. An individual's request for a hearing may also be made in the form of a simple letter or written request to the Department, provided the request identifies the basis for appeal.

The individual's request for a hearing is made to the Director of the Department of Social Services and forwarded to the attention of the Legal Services Division.

6-004.02 Parties to a Contested Case: The parties to a contested case shall be the petitioner or person by whom a contested case is brought and the Department or other decision maker whose decision is subject to appeal or a person or party granted leave to intervene.

A party may appear on his or her own behalf in a contested case proceeding or may be represented by an attorney or other representative as permitted by law.

6-004.03 Pleadings in a Contested Case: The pleadings in a contested case may include a petition, answer, reply, notice, motion, stipulation, objection or order or other formal written document filed in a proceeding before the Department. Except when pleadings are filed by a pro se party or non-attorney representative, any pleading filed in a contested case shall meet the following requirements:

1. The pleading shall contain a heading specifying the name of the Department of Social Services and the title or nature of the pleading, shall state material factual allegations and state concisely the action the Department is being requested to take, shall contain the name and address of the petitioner, and shall be signed by the party filing the pleading, or when represented by an attorney, the signature of that attorney. Attorneys shall also include their address, telephone number and bar number. The initial petition shall also contain the name and address of the respondent.
2. All formal pleadings shall be made on white, letter-sized (8 1/2 x 11) paper and shall be legibly typewritten, photostatically reproduced, printed or handwritten. If handwritten, a pleading must be written in ink or on Form DA-6.

6-004.04 Filing of Pleadings: All pleadings shall be filed with the Department at any of its offices. Filing may be accomplished by personal delivery or mail and will be received during regular office hours of the Department of Social Services.

6-004.05 Pleadings Subsequent to Initial Petition: All pleadings subsequent to the initial petition shall be served by the party filing such pleading upon all attorneys of record or other representatives of record and upon all unrepresented parties. Service shall be made personally or by first-class or certified mail. Written proof of such service shall be filed with the Department of Social Services.

6-004.06 Hearing Date: Unless state law provides that a hearing is not required, a hearing date shall be set by the Department in accordance with statutory or regulatory requirements unless waived by agreement of the parties. See also 465 NAC 2-001.02. A written notice of the time and place of hearing and the name of the hearing officer, if known, shall be served by the Department upon all attorneys of record or other representatives of record and upon all unrepresented parties.

6-004.07 Conducting Hearings: Hearings are held either by telephone or at a Department office. In special circumstances hearings may be held at another location. In case the applicant is living outside the state, the hearing may be held at any point within the state which is convenient for him/her. A petitioner who is unable to be present at the hearing may, in writing, designate a representative to represent him/her.

6-004.08 Computation of Time: In computing time prescribed or allowed by Chapter 6 of these rules and regulations or by any applicable statute or regulation in which the method of computing time is not specifically provided, days will be computed by excluding the day of the act or event and including the last day of the period. If the last day of the period falls on a Saturday, Sunday, or state holiday, the period shall include the next working day.

6-005 Hearing Officer; Criteria: The Director may delegate to a hearing officer the functions of conducting a prehearing conference and/or a hearing and submitting a recommended decision to the Director of Social Services.

A person who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may not serve as hearing officer or assist or advise a hearing officer in the same proceeding unless all parties consent.

A person who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may not serve as hearing officer or advise a hearing officer in the same proceeding unless all parties consent.

If all parties consent, a person who has served as, or who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may assist a hearing officer in the preparation of orders.

A person who has participated in a determination of probable cause or other equivalent preliminary determination in a contested case may serve as hearing officer or assist or advise a hearing officer in the same proceeding.

A person may serve as hearing officer at successive stages of the same contested case.

### 6-006 Prehearing Procedures

6-006.01 Prehearing Conferences and Orders: The hearing officer designated to conduct a hearing may determine, on his or her own or upon the motion of any party, whether a prehearing conference will be conducted. If a prehearing conference is not held, the hearing officer for the hearing may issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

If a prehearing conference is conducted:

1. The hearing officer shall promptly notify the parties of the determination that a prehearing conference will be conducted. The Department may assign another hearing officer for the prehearing conference; and
2. The hearing officer for the prehearing conference shall set the time and place of the conference and give reasonable written notice to all parties and to all persons who have filed written petitions to intervene in the matter. The Department of Social Services shall give notice to other persons entitled to notice.

6-006.01A Notice: The notice of a prehearing conference shall include the following:

1. The names and mailing addresses of all parties and other persons to whom notice is being given by the hearing officer;
2. The name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the Department of Social Services;
3. The official file or other reference number, the name of the proceeding, and a general description of the subject matter;
4. A statement of the time, place, and nature of the prehearing conference;
5. A statement of the legal authority and jurisdiction under which the prehearing conference and the hearing are to be held;
6. The name, official title, mailing address, and telephone number of the hearing officer for the prehearing conference;
7. A statement that a party who fails to attend or participate in a prehearing conference, hearing, or other stage of a contested case or who fails to make a good faith effort to comply with a prehearing order may be held in default under the Administrative Procedure Act; and
8. Any other matters that the hearing officer considers desirable to expedite the proceedings.

6-006.01B Subjects for Prehearing Conference: The hearing officer shall conduct a prehearing conference, as may be appropriate, to deal with such matter as exploration of settlement possibilities, preparation of stipulations, clarification of issues, rulings on identity and limitation of the number of witnesses, objections to proffers of evidence, determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, television, or other electronic means will be used as a substitute for proceedings in person, order of presentation of evidence and cross-examination, rulings regarding issuance of subpoenas, discovery orders, and protective orders, and such other matters as will promote the orderly and prompt conduct of the hearing. The hearing officer shall issue a prehearing order incorporating the matters determined at the prehearing conference.

6-006.01C Conference by Electronic Means: The hearing officer may conduct all or part of the prehearing conference by telephone, television, or other electronic means if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

6-006.02 Discovery in Contested Cases: The hearing officer or a designee, at the request of any party or upon the hearing officer's own motion, may issue subpoenas, discovery orders, and protective orders in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.

Any prehearing motion to compel discovery, motion to quash, motion for protective order or other discovery-related motion shall -

1. Quote the interrogatory, request, question, or subpoena at issue, or be accompanied by a copy of the interrogatory, request, subpoena or excerpt of a deposition;
2. State the reasons supporting the motion;
3. Be accompanied by a statement setting forth the steps or efforts made by the moving party or his or her counsel to resolve by agreement the issues raised and that agreement has not been achieved; and
4. Be filed with the Department. The moving party must serve copies of all such motions to all parties to the contested case.

Other than previously stated, discovery materials need not be filed with the Department.

6-006.03 Continuances: The hearing officer may, in his or her discretion, grant extensions of time or continuances of hearings upon the hearing officer's own motion or at the timely request of any party for good cause shown.

6-006.03A Good Cause: Good cause for an extension of time or continuance may include, but is not limited to, the following:

1. Illness of the party, legal counsel or witness;
2. A change in legal representation; or
3. Settlement negotiations are underway.

6-006.04 Amendments: A petition may be amended at any time prior to the hearing.

A hearing officer may also allow, in his or her discretion, the filing of supplemental pleadings alleging facts material to the case occurring after the original pleadings were filed. A hearing officer may also permit amendment of pleadings where a mistake appears or where amendment does not materially change a claim or defense.

6-006.05 Informal Disposition: Unless otherwise precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

### 6-007 Conducting a Contested Case Hearing

6-007.01 The Hearing Officer: The hearing officer is designated by, and acts on behalf of, the Director.

6-007.01A General Duties of the Hearing Officer: The hearing officer has three primary duties:

1. To help all persons who testify at the hearing to present their evidence as completely and accurately as possible;
2. To keep the hearing orderly and to the point by excluding and discouraging evidence which is irrelevant. The hearing officer should not answer questions which have no bearing on the appeal; and
3. To complete a record of the hearing which contains sufficient evidence to enable the Director to make a decision.

6-007.01B Authority of the Hearing Officer: The hearing officer has broad authority to conduct the hearing in a manner which will bring out the pertinent facts in an orderly manner. S/he may -

1. Exclude irrelevant evidence;
2. Ask for additional evidence or witnesses;
3. Question witnesses regarding their competency;
4. Ask that additional documents be provided;
5. Dismiss witnesses from the room for good and sufficient reason;
6. Compel the attendance of witnesses by subpoena; and
7. Administer oaths.



6-007.01C Recess, Continuance, Closing and Reopening of Hearing: The hearing officer has authority to recess, continue, or close a hearing at any time there is good and sufficient reason for so doing. The hearing officer shall consider anything which would aid in establishing or clarifying pertinent facts as a "good and sufficient reason." Any interested person may ask to have a hearing reopened. The request is addressed to the Director. The Director has authority to reopen a hearing upon his/her own motion, or upon the request of any interested person. Notice of a decision to reopen the hearing shall be served to all parties by the Department and the parties will be afforded the opportunity to present rebuttal evidence.

#### 6-007.02 Persons at the Hearing

6-007.02A Department Staff and Witnesses: The Department may bring representatives of the Department and any witnesses who are able to give relevant testimony concerning the facts which are in question. Witnesses may be asked to leave after their testimony is given.

6-007.02B Petitioner and Witnesses: The petitioner may bring any witnesses s/he chooses. There are no limitations as to the persons who the petitioner may have present. Confidential information learned by these persons is with the implied consent of the petitioner.

6-007.02C Spectators: No spectator may be present at the hearing without the consent of the petitioner or the hearing officer. The hearing officer shall inform the petitioner of the option to exclude spectators. If the petitioner prefers, the hearing officer shall exclude the spectators from the hearing.

6-007.02D Petitioner's Representative or Attorney: If the petitioner does not wish to represent himself/herself, the petitioner may designate any person to represent him/her at the hearing. The petitioner has the right to be represented by an attorney or such other person as may be permitted by law.

6-007.03 Group Hearings: The Director or designee may respond to a series of individual requests for hearings on an issue of policy by holding a single group hearing. In such instances, individuals have the right to withdraw from the group hearing in favor of an individual hearing. The Director or designee may grant a group hearing on an issue of policy when requested by recipients. Policies covering hearings must be followed in all group hearings, whether initiated by the client, or by the Director or his/her designee.

6-007.04 Order: At the discretion of the hearing officer, the hearing may be conducted in the following order:

1. The hearing is called to order by the hearing officer. Any preliminary motions, stipulations or agreed orders are entertained.
2. Each party may be permitted to make an opening statement. Opening statements take place in the same order as the presentation of evidence.

3. Presentation of evidence. Evidence will be received in the following order:
  - a. Evidence is presented by the Department or other decision maker;
  - b. Evidence is presented by the petitioner;
  - c. Rebuttal evidence is presented by the Department or other decision maker;  
and
  - d. Surrebuttal evidence is presented by the petitioner.
4. With regard to each witness who testifies, the following examination may be conducted:
  - a. Direct examination conducted by the party who calls the witness;
  - b. Cross-examination by the opposing party;
  - c. Redirect examination by the party who called the witness;
  - d. Recross-examination by the opposing party; and
  - e. Further redirect and cross as allowed by the hearing officer.

After the evidence is presented, each party may have opportunity to make a closing argument. Closing arguments shall be made in the same order as the presentation of evidence. The hearing officer may request that the parties submit briefs in lieu of closing arguments.

6-007.05 Evidence: In contested cases the hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs and may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

6-007.05A Hearing Record Exhibits: When a hearing is scheduled to be heard by telephone, the staff involved shall forward the exhibits to be presented at the hearing to the Legal Services Division before the hearing. The staff shall clearly identify the exhibits on a note or cover letter. For other hearings, the staff involved will present exhibits at the time of the hearing. Copies of the exhibits must be made available to the petitioner. As appropriate to the type of case involved, the following exhibits must be furnished:

1. A case summary: This is a brief memo outlining important events, dates, and other facts involved in the case;
2. A copy of the notice sent to the client or applicant;
3. Budgets, worksheets, and computer printouts;
4. Verifications regarding income, resources, etc.;
5. Relevant narrative;
6. Pertinent state regulations or manual references; and
7. Other relevant material such as copies of contracts or deeds.

6-007.05B Request for Rules of Evidence: Any party to a formal hearing before the Department, from which a decision may be appealed to the courts of this state, may request that the Department be bound by the rules of evidence applicable in district court by delivering to the Department at least three days prior to the holding of the hearing a written request therefore. Such request shall include the requesting party's agreement to be liable for the payment of costs incurred thereby and upon any appeal or review thereof, including the cost of court reporting services which the requesting party shall procure for the hearing.

6-007.05C Documentary Evidence: Documentary evidence may be received in the form of originals, or copies, or excerpts of documents or excerpts thereof.

6-007.05D Evidence in Department's Possession: All evidence including records and documents in the possession of the Department of which it desires to avail itself shall be offered and made a part of the record in the case. No factual information or evidence other than the record shall be considered in the determination of the case. See 465 NAC 2-006.01B.

6-007.05E Oaths and Subpoenas: A hearing officer may administer oaths and issue subpoenas in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court unless otherwise provided by law.

6-007.05F Rules of Privilege: The Department shall give effect to the rules of privilege recognized by law.

6-007.05G Official Notice: The Department may take official notice of cognizable facts and in addition may take official notice of general, technical, or scientific facts within its specialized knowledge and the rules and regulations adopted and promulgated by the Department of Social Services.

Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of materials so noticed.

Parties shall be afforded an opportunity to contest facts so noticed.

The record shall contain a written record of everything officially noticed.

6-007.05H Evaluation of Evidence: The Department may utilize its experience, technical competence and specialized knowledge in the evaluation of the evidence presented to it.

6-007.05J Medical Evidence: When the hearing issue involves medical evidence, the petitioner or hearing officer may request a medical examination and report by any available medical authority other than the one involved in the decision being appealed.

6-007.06 Conducting the Hearing by Electronic Means: Unless otherwise provided by law, the hearing officer may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

6-007.07 Official Record: The Department shall prepare an official record, which shall include testimony and exhibits, in each contested case, but it shall not be necessary to transcribe the record of the proceedings unless requested for purpose of rehearing or appeal, in which event the transcript and record shall be furnished by the Department upon request and tender of the cost of preparation unless otherwise provided by law.

The Department shall maintain an official record of each contested case under the Administrative Procedure Act for at least four years following the date of the final order.

The Department record shall consist only of the following:

1. Notices of all proceedings;
2. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Department pertaining to the contested case;
3. The record of the hearing before the Department, including all exhibits and evidence introduced during such hearing, a statement of matters officially noticed by the Department during the proceeding, and all proffers of proof and objections and rulings thereon; and
4. The final order.

As provided above or in 465 NAC 6-002 et. seq., the hearing officer or the Director or other employee who is or may reasonably be expected to be involved in the decision making process of the contested case who receives or who makes or knowingly causes to be made an ex parte communication as set forth in that subsection shall make the appropriate filings which shall be included in the official record of the contested case.

Except to the extent that the Administrative Procedure Act or another statute provides otherwise, the Department record shall constitute the exclusive basis for Department action in contested cases under the act and for judicial review thereof.

6-007.08 Costs: All costs of a formal hearing shall be paid by the party or parties against whom a final decision is rendered. Cost shall mean the cost of court reporting services in cases where the formal rules of evidence have been involved pursuant to 465 NAC 6-007.05B.

## 6-008 Decision and Order in a Contested Case

6-008.01 Summary Disposition: The Department may on its own motion summarily dismiss any appeal for the following reasons:

1. The appeal is not timely filed as shown by Department records; and/or
2. The appeal raises no appealable issue as provided by law.

Any Department records relied upon for a summary dismissal shall be attached to the Order of Dismissal and shall become part of the record of the proceedings.

6-008.02 Time Frames: The Director shall make the decision on the hearing as soon as possible and, in the absence of special or unusual circumstances, shall make the decision within 60 days from the date that the petitioner requests a hearing. Emergency assistance decisions must be made within seven days of the hearing.

If applicable, a decision in favor of the petitioner applies retroactively to the date of the inaction or incorrect action.

6-008.03 Adverse Decision: Every decision and order adverse to a party to the proceeding, rendered by the Department in a contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.

6-008.04 Contents of Decision and Order: The decision and order should include -

1. The Nebraska Department of Social Services and name of the proceeding;
2. The date and place of the hearing;
3. The names of all parties or their attorneys who entered an appearance at the hearing;
4. The findings of fact consisting of a concise statement of the conclusions upon each contested issue of fact;
5. The conclusions of law consisting of the applications of the controlling law to the facts found and the legal results arising therefrom; and
6. The order consisting of the action taken by the Department as a result of the facts found and the legal conclusions arising therefrom.

6-008.05 Notification of Decision: Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or his or her attorney of record.

6-008.06 Mandatory Effect: Unless appealed to the District Court, the decision of the Director is final. The Division, District, or Local Office Administrator (as appropriate) shall take immediate steps to enforce the Director's decision in the office to which the finding and order applies.

6-008.07 Administrative Finality (Res Judicata): When a final decision is entered by the Director, the issues may not be reappealed to the Department unless there has been a change in circumstances and additional action by Department staff. Any appeals which are found to be based wholly or partially upon issues decided in a previous appeal, must be wholly or partially dismissed, as appropriate.

6-009 Appeals: Any person aggrieved by a final decision in a contested case is entitled to judicial review under the Administrative Procedure Act or to resort to such other means of review as may be provided by law.

Parties desiring to appeal a Department decision must file a petition for review in the district court of the county where the Department action is taken within 30 days after the service of the final decision by the Department. The 30-day period for appeal commences to run from the date of mailing of the notice of order and decision to the parties or their attorneys of record. Service of the petition and summons must be made in accordance with Nebraska law.

Unless otherwise provided by statute, the procedures of Neb. Rev. Stat. '84-917 govern the procedure for taking an appeal.