

CHAPTER 9
ADMINISTRATIVE REMEDIES

621—9.1(20) Final decisions.

9.1(1) When a majority of the board presides at the reception of the evidence in a contested case, the decision of the board is a final decision. ~~a quorum of the members of the board presides at the evidentiary hearing in a contested case proceeding, the decision entered thereon is the final decision of the agency.~~

9.1(2) When a majority of the board did not preside at the reception of the evidence in a contested case, the presiding officer shall make a proposed decision. ~~When the hearing is presided over by other than a quorum of the members of the board, the administrative law judge shall render a proposed decision.~~

9.1(3) When the presiding officer makes a proposed decision, that decision becomes the final decision of the agency without further proceedings unless there is an appeal to the board, or the board on its own motion determines to review the proposed decision ~~which shall become the final decision of the agency unless within 20 days of the filing of such proposed decision.~~

9.1(1)

A party aggrieved by the proposed decision files an appeal to the board, or

9.1(2)

The board, on its own motion, determines to review the proposed decision.

621—9.2(20) Appeals to board.

9.2(1) Notice of appeal. An appeal to the board from a proposed decision of an administrative law judge ~~a presiding officer~~ in a contested case proceeding shall ~~must be~~ commenced by filing a written notice of appeal with the board within 20 days of the filing of the proposed decision ~~by filing a written notice of appeal with the board.~~ The appealing party shall serve a copy of the notice upon all opposing parties as provided in rule 621—2.15(20), ~~or by~~ ordinary mail upon the parties' attorneys of record.

9.2(2) Cross-appeals. A cross-appeal may be taken in the same manner as an appeal and must be filed within the 20 days of the filing of the proposed decision for taking an appeal or within 5 days after the initial appeal is taken filed, whichever is later.

9.2(3) Hearing.

a. On appeal from or review of the proposed decision, the board has all the power which it would have had in initially making the final decision except as it may limit the issues after giving notice to the parties. The board may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law that the board finds to be in error.

b. The parties shall be given an opportunity to file exceptions, present briefs and, with the consent of the board, present oral arguments to the board members who are to render the final decision.

c. On appeal the board shall utilize the record as submitted before the administrative law judge ~~presiding officer~~ but may, upon application of a party, order that additional evidence be taken on appeal if it is shown that the additional evidence is material and that there were good reasons for the party's failure to present it before ~~the administrative law judge~~ the presiding officer.

d. Any person, employee organization or public employer who has a significant interest in the outcome of the appeal may petition the board for ~~intervention in the appeal proceedings~~ amicus curiae status. Where amicus curiae status ~~intervention~~ is granted by the board, the ~~intervening parties~~ the party may submit briefs and arguments and participate in the same manner as an original party to the proceeding.

e. If the Board consents to the presentation of oral arguments or orders that additional evidence be taken, ~~t~~The board shall set a time and place of ~~hearing or argument or hearing~~ and give notice thereof to the parties.

f. The decision rendered by the board on appeal shall be a final decision of the agency.

621—9.3(20) Rehearing. Any party may file an application for rehearing, stating the specific grounds for rehearing and the relief sought, within 20 days after the date of the issuance of any final decision by the agency in a contested case. A copy of the application for rehearing shall be timely served by the board to all parties of record not joining in the application. An application for rehearing shall be deemed to have been denied unless the board grants the application within 20 days after its filing.

621—9.4(20) Stays of agency action. Application for stays of agency action must be filed with the board and served upon all interested parties pursuant to rule 621—2.15(20). The board may, in its discretion and on such terms as it deems proper, grant or deny an application.

621—9.5(20) Judicial review. Parties may appeal final decisions of the agency by filing a petition for judicial review in the district court pursuant to Iowa Code section 17A.19(2).

These rules are intended to implement Iowa Code chapters 17A and 20.