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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15990.3] (Division 3 added by Stats. 1945, Ch. 111.)

PART 1. STATE DEPARTMENTS AND AGENCIES [11000 - 11898] (Part 1 added by Stats. 1945, Ch. 111.)

CHAPTER 4.5. Administrative Adjudication: General Provisions [11400 - 11475.70] (Chapter 4.5 added by Stats. 1995, Ch. 938, Sec. 21.)

ARTICLE 10. Informal Hearing [11445.10 - 11445.60] (Article 10 added by Stats. 1995, Ch. 938, Sec. 21.)

11445.10. (a) Subject to the limitations in this article, an agency may conduct an adjudicative proceeding under the informal hearing procedure provided in this article.

(b) The Legislature finds and declares the following:

- (1) The informal hearing procedure is intended to satisfy due process and public policy requirements in a manner that is simpler and more expeditious than hearing procedures otherwise required by statute, for use in appropriate circumstances.
- (2) The informal hearing procedure provides a forum in the nature of a conference in which a party has an opportunity to be heard by the presiding officer.
- (3) The informal hearing procedure provides a forum that may accommodate a hearing where by regulation or statute a member of the public may participate without appearing or intervening as a party.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.20. Subject to Section 11445.30, an agency may use an informal hearing procedure in any of the following proceedings, if in the circumstances its use does not violate another statute or the federal or state Constitution:

(a) A proceeding where there is no disputed issue of material fact.

(b) A proceeding where there is a disputed issue of material fact, if the matter is limited to any of the following:

- (1) A monetary amount of not more than one thousand dollars (\$1,000).
- (2) A disciplinary sanction against a student that does not involve expulsion from an academic institution or suspension for more than 10 days.
- (3) A disciplinary sanction against an employee that does not involve discharge from employment, demotion, or suspension for more than 5 days.
- (4) A disciplinary sanction against a licensee that does not involve an actual revocation of a license or an actual suspension of a license for more than five days. Nothing in this section precludes an agency from imposing a stayed revocation or a stayed suspension of a license in an informal hearing.

(c) A proceeding where, by regulation, the agency has authorized use of an informal hearing.

(d) A proceeding where an evidentiary hearing for determination of facts is not required by statute but where the agency determines the federal or state Constitution may require a hearing.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.30. (a) The notice of hearing shall state the agency's selection of the informal hearing procedure.

(b) Any objection of a party to use of the informal hearing procedure shall be made in the party's pleading.

(c) An objection to use of the informal hearing procedure shall be resolved by the presiding officer before the hearing on the basis of the pleadings and any written submissions in support of the pleadings. An objection to use of the informal hearing procedure in a disciplinary proceeding involving an occupational license shall be resolved in favor of the licensee.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.40. (a) Except as provided in this article, the hearing procedures otherwise required by statute for an adjudicative proceeding apply to an informal hearing.

(b) In an informal hearing the presiding officer shall regulate the course of the proceeding. The presiding officer shall permit the parties and may permit others to offer written or oral comments on the issues. The presiding officer may limit the use of witnesses, testimony, evidence, and argument, and may limit or eliminate the use of pleadings, intervention, discovery, prehearing conferences, and rebuttal.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.50. (a) The presiding officer may deny use of the informal hearing procedure, or may convert an informal hearing to a formal hearing after an informal hearing is commenced, if it appears to the presiding officer that cross-examination is necessary for proper determination of the matter and that the delay, burden, or complication due to allowing cross-examination in the informal hearing will be more than minimal.

(b) An agency, by regulation, may specify categories of cases in which cross-examination is deemed not necessary for proper determination of the matter under the informal hearing procedure. The presiding officer may allow cross-examination of witnesses in an informal hearing notwithstanding an agency regulation if it appears to the presiding officer that in the circumstances cross-examination is necessary for proper determination of the matter.

(c) The actions of the presiding officer under this section are not subject to judicial review.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.60. (a) If the presiding officer has reason to believe that material facts are in dispute, the presiding officer may require a party to state the identity of the witnesses or other sources through which the party would propose to present proof if the proceeding were converted to a formal or other applicable hearing procedure. If disclosure of a fact, allegation, or source is privileged or expressly prohibited by a regulation, statute, or the federal or state Constitution, the presiding officer may require the party to indicate that confidential facts, allegations, or sources are involved, but not to disclose the confidential facts, allegations, or sources.

(b) If a party has reason to believe that essential facts must be obtained in order to permit an adequate presentation of the case, the party may inform the presiding officer regarding the general nature of the facts and the sources from which the party would propose to obtain the facts if the proceeding were converted to a formal or other applicable hearing procedure.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)