

1400.5600 NOTICE AND ORDER FOR HEARING.

Subpart 1. **Commencing a contested case.** A contested case is commenced, subsequent to the assignment of a judge, by the service of a notice of and order for hearing by the agency.

Subp. 2. **Contents of notice and order.** Unless otherwise provided by law, a notice of and order for hearing, which shall be a single document, shall be served upon all parties, shall be filed with the office and shall contain, among other things, the following:

A. The time, date, and place for the hearing or a prehearing conference, or a statement that the matter has been referred to the office and that a hearing or prehearing time, date, and place will be set by the judge;

B. Name, address, and telephone number of the judge;

C. A citation to the agency's statutory authority to hold the hearing and to take the action proposed;

D. A statement of the allegations or issues to be determined together with a citation to the relevant statutes or rules allegedly violated or which control the outcome of the case;

E. Notification of the right of the parties to be represented by an attorney, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law;

F. A citation to parts 1400.5100 to 1400.8400, to any applicable procedural rules of the agency, and to the contested case provisions of Minnesota Statutes, chapter 14, and notification of how copies may be obtained in print or online;

G. A brief description of the procedure to be followed at the hearing;

H. A statement advising the parties to bring to the hearing all documents, records, and witnesses they need to support their position;

I. A statement that subpoenas may be available to compel the attendance of witnesses or the production of documents, referring the parties to part 1400.7000 relating to subpoenas;

J. A statement advising the parties of the name of the agency official or member of the attorney general's staff to be contacted to discuss informal disposition pursuant to part 1400.5900 or discovery pursuant to parts 1400.6700 and 1400.6800;

K. A statement advising the parties that a notice of appearance must be filed with the judge within 20 days of the date of service of the notice of and order for hearing if a party intends to appear at the hearing unless the hearing date is less than 20 days from the issuance of the notice of and order for hearing;

L. A statement advising existing parties that failure to appear at a prehearing conference, settlement conference, or the hearing, or failure to comply with any order of the judge may result in the allegations of the notice of and order for hearing being taken as true, or the issues set out being deemed proved, and a statement that explains the possible results of the allegations being taken as true or the issues proved;

M. A statement advising the parties that state agencies are required by law to keep some data not public, that parties are required to advise the judge if not public data is offered into the record, and that if not public data is admitted into evidence it may become public unless a party objects and asks for relief under Minnesota Statutes, sections 14.60, subdivision 2;

N. A statement advising the parties and counsel that the office conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association;

O. Notification that the agency will, upon request, make an accommodation so that the hearing is accessible and will appoint a qualified interpreter if necessary; and

P. A statement advising the parties that if an interpreter is needed the judge must be promptly notified.

Subp. 3. **Service.** Unless otherwise provided by law, the notice of and order for hearing shall be served and filed not less than 30 days prior to the hearing. Provided, however, that a shorter time may be allowed, where it can be shown to the chief judge that a shorter time is in the public interest and that interested persons are not likely to be prejudiced.

Subp. 4. [Repealed, 26 SR 391]

Subp. 5. **Amendment.** At any time prior to the start of the evidentiary hearing, the agency may file and serve an amended notice of and order for hearing, provided that, should the amended notice and order raise new issues or allegations, the parties shall have a reasonable time to prepare to meet the new issues or allegations if requested. Amendments sought after the start of the hearing must be approved by the judge.

Subp. 6. **Alternative documents and procedures.** With the prior written concurrence of the chief judge, an agency may substitute other documents and procedures for the notice of and order for hearing provided that the documents and procedures inform actual and potential parties of the information contained in subpart 2.

Subp. 7. **Department of Human Rights hearings.** After receipt of a request for a hearing forwarded by the commissioner of the Department of Human Rights under Minnesota Statutes, section 363A.29, subdivision 2, and the assignment of a judge to the case, the judge shall prepare and issue a notice of and order for hearing. The notice shall incorporate the charge or charges filed by the charging party and shall state that an answer

to the charges must be served and filed by the respondent within 20 days after service of the notice.

Statutory Authority: *MS s 3.764; 14.06; 14.131; 14.51; 15.474; 116C.66; 216E.16; 363.06; 363A.28*

History: *9 SR 2276; 11 SR 1385; 15 SR 1595; 26 SR 391*

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