

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-24. Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63G-4-206, and 63G-4-208.

- (1) The following may preside at a formal proceeding:
 - (a) a commissioner;
 - (b) an administrative law judge appointed by the commission; or
 - (c) in the case of a formal proceeding that relates to a matter that is not a tax, fee, or charge as defined under Section 59-1-1402:
 - (i) a commissioner;
 - (ii) an administrative law judge appointed by the commission; or
 - (iii) a hearing officer appointed by the commission.
- (2) Assignment of a presiding officer to a case will be made pursuant to agency procedures and not at the request of any party to the appeal.
 - (a) A party may request that one or more commissioners be present at any hearing. However, the decision of whether the request is granted rests with the commission.
 - (b) If more than one commissioner, administrative law judge, or hearing officer is present at any hearing, the hearing will be conducted by the presiding officer assigned to the appeal, unless otherwise determined by the commission.
- (3) A formal proceeding includes an initial hearing pursuant to Section 59-1-502.5, unless it is waived upon agreement of all parties, and a formal hearing on the record, if the initial hearing is waived or if a party appeals the initial hearing decision.
 - (a) Initial Hearing.
 - (i) An initial hearing pursuant to Section 59-1-502.5 shall be in the form of a conference.
 - (ii) In accordance with Section 59-1-502.5, the commission shall make no record of an initial hearing.
 - (iii) Any issue may be settled in the initial hearing, but any party has a right to a formal hearing on matters that remain in dispute after the initial hearing decision is issued.
 - (iv) Any party dissatisfied with the result of the initial hearing must file a timely request for a formal hearing before pursuing judicial review of unsettled matters.
 - (b) Formal Hearing.
 - (i) The commission shall make a record of all formal hearings, which may include a written record or an audio recording of the proceeding.
 - (ii) Evidence presented at the initial hearing will not be included in the record of the formal hearing, unless specifically requested by a party and admitted by the presiding officer.

KEY: developmental disabilities, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: December 8, 2011

Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: 10-1-405; 41-1a-209; 52-4-207; 59-1-205; 59-1-207; 59-1-210; 59-1-301; 59-1-302.1; 59-1-304; 59-1-401; 59-1-403; 59-1-404; 59-1-405; 59-1-501; 59-1-502.5; 59-1-602; 59-1-611; 59-1-705; 59-1-706; 59-1-1004; 59-1-1404; 59-7-505; 59-10-512; 59-10-532; 59-10-533; 59-10-535; 59-12-107; 59-12-114; 59-12-118; 59-13-206; 59-13-210; 59-13-307; 59-10-544; 59-14-404; 59-2-212; 59-2-701; 59-2-705; 59-2-1003; 59-2-1004; 59-2-1006; 59-2-1007; 59-2-704; 59-2-924; 59-7-517; 63G-3-301; 63G-4-102; 76-8-502; 76-8-503; 59-2-701; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-204; 63G-4

**205 through 63G-4-209; 63G-4-302; 63G-4-401; 63G-4-503; 63G-3-201(2); 68-3-7; 68-3-8.5;
69-2-5; 42 USC 12201; 28 CFR 25.107 1992 Edition**