

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2249

By: Weese

AS INTRODUCED

An Act relating to the Oklahoma Administrative

Procedures Act; amending 75 O.S. 1991, Section 309, as last amended by Section 12, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1995, Section 309), which relates to individual proceedings; requiring use of hearing examiners at evidentiary proceedings; providing exception; requiring preparation of certain findings or conclusions; authorizing agencies to prescribe certain procedures; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 75 O.S. 1991, Section 309, as last amended by Section 12, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1995, Section 309), is amended to read as follows:

Section 309. A. In an individual proceeding, all parties shall be afforded an opportunity for hearing after reasonable notice.

B. The notice shall include:

1. A statement of the time, place and nature of the hearing;

2. A statement of the legal authority and jurisdiction under

which the hearing is to be held;

3. A reference to the particular sections of the statutes and rules involved; and

4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

C. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

D. Unless otherwise agreed by the agency and all parties to an individual proceeding, the agency shall either employ or retain a hearing examiner to conduct any hearing at which evidence is presented. The hearing examiner shall prepare proposed findings of fact or conclusions of law or both as the agency conducting the individual proceeding shall direct. Each agency may prescribe procedures to be followed for hearings presided over by a hearing examiner, the formalities to be observed during the presentation of evidence, the procedures for preparation of findings of fact and conclusions of law, procedures for rehearing or reconsideration and the procedures for adoption of the findings of fact or conclusions of law as the final order of the agency.

E. Deliberations by administrative heads, hearing examiners, and other persons authorized by law may be held in executive session pursuant to paragraph 8 of subsection B of Section 307 of Title 25 of the Oklahoma Statutes.

~~E.~~ F. Unless precluded by law, informal disposition may be made of any individual proceeding by stipulation, agreed settlement, consent order, or default.

~~F.~~ G. The record in an individual proceeding shall include:

1. All pleadings, motions and intermediate rulings;
2. Evidence received or considered at the individual proceeding;

3. A statement of matters officially noticed;

4. Questions and offers of proof, objections, and rulings thereon;

5. Proposed findings and exceptions;

6. Any decision, opinion, or report by the officer presiding at the hearing; and

7. All other evidence or data submitted to the hearing examiner or administrative head in connection with their consideration of the case provided all parties have had access to such evidence.

~~G.~~ H. Oral proceedings shall be electronically recorded. Such recordings shall be maintained for such time so as to protect the record through judicial review. Copies of the recordings shall be provided by the agency at the request of any party to the proceeding. Costs of transcription of the recordings shall be borne by the party requesting the transcription. For judicial review, electronic recordings of an individual proceeding, as certified by the agency, may be submitted to the reviewing court by the agency as part of the record of the proceedings under review without transcription unless otherwise required to be transcribed by the reviewing court. In such case, the expense of transcriptions shall be taxed and assessed against the nonprevailing party. Parties to any proceeding may have the proceedings transcribed by a court reporter at their own expense.

~~H.~~ I. Findings of fact shall be based exclusively on the evidence received and on matters officially noticed in the individual proceeding unless otherwise agreed upon by the parties on the record.

SECTION 2. This act shall become effective November 1, 1996.

45-2-8394

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