

77-520. Default. (a) If a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds.

(b) Within seven days after service of a proposed default order, the party against whom it was issued may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of the party against whom a proposed default order was issued, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(c) The proposed default order shall become effective after expiration of the time within which the party may file a written motion under subsection (b) unless a written motion to vacate the order is filed with the agency within such time. Upon receipt of a motion to vacate a proposed default order, the presiding officer shall either vacate the proposed order or issue the default order as proposed. If the presiding officer issues a default order as proposed, the order shall become effective upon service.

(d) After a default order becomes effective, the presiding officer shall conduct any further proceedings necessary to complete the adjudication without the participation of the party in default and shall determine all issues in the adjudication, including those affecting the defaulting party. The presiding officer in lieu of determining the issues affecting the defaulting party may, unless otherwise prohibited by law, dismiss such party's application for an adjudicative proceeding.

(e) If the presiding officer is the agency head, or has been designated under K.S.A. 77-514, and amendments thereto, to issue a final order, the order shall be deemed a final order. If the presiding officer is not the agency head, and has not been designated to issue a final order under K.S.A. 77-514, and amendments thereto, the order shall be deemed an initial order.

History: L. 1984, ch. 313, § 20; L. 1986, ch. 362, § 6; L. 1988, ch. 356, § 9; L. 1991, ch. 277, § 1; L. 2009, ch. 109, § 9; July 1.