
The purpose of the proposed amendment is to be consistent with the Open Meetings Act, NMSA 1978, Section 10-15-1(H)(1) which allows for meetings pertaining to the issuance, suspension, renewal or revocation of a license as an exception to the Act, as long as all final actions on such matters are taken in an open meeting.

15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:

C. Proceedings by the commission:

(15) Proposal for decision.

(a) Where a hearing officer conducts a hearing, the hearing officer shall complete a report containing his or her findings of fact, conclusions of law and recommendations for commission action.

(b) Any commissioner who did not hear the case may not participate in a decision in which the commission rejects, modifies, adds to, or makes substitutions for the findings of fact in a hearing officer's report unless the commission has reviewed all portions of the record that pertain to such findings of fact.

(c) Where the commission itself is the hearing body, the commission shall complete a report containing findings of fact and conclusions of law. No commissioner may participate who has not either heard the case or reviewed the entire record.

(d) The person preparing a proposal for decision under this section shall initiate service of a copy of the hearing officer's report or commission's report on each party of record no later than 31 calendar days after the close of the hearing.

(e) A party of record may, not later than 10 business days after the date of service of a hearing officer's report or commission's report, file exceptions to the report. A reply to an exception filed under this subsection must be filed no later than five business days after the last day for filing the exceptions. A copy of each exception and reply must be served on all parties of record.

(f) After the expiration of time for filing exceptions and replies, the commission shall consider the proposal for decision in ~~open meeting~~closed session. The commission may: adopt the proposal for decision, in whole or in part; decline to adopt the proposal for decision, in whole or in part; modify the decision, in whole or in part, based on aggravating or mitigating factors; remand the proceeding for further examination by the same or a different presiding officer; or direct the presiding officer to give further consideration to the proceeding with or without reopening the hearing.

[15.2.1.9 NMAC - Rp, 15 NMAC 2.1.9, 3/15/2001; A, 3/31/2003; A, 5/30/2003; A, 6/15/2004; A, 6/30/2009; A, 9/15/2009; A, 12/1/2010; A, 5/1/2013; A, 1/1/2014; A, 3/16/2015; A, 5/1/2015; A, 9/16/2015; A, 3/15/2016; A/E, 6/28/2016; A, 9/16/2016; A, 12/16/2016; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018; A, 4/9/2019]