**2 AAC Chapter 64: Office of Administrative Hearings**

**Article 2: Hearing Procedures**

**Article 3: General Provisions**

**(2 AAC 64.100-990)**

**2 AAC 64.100. Purpose, applicability, and effect of hearing procedures.**

(a) The purpose of 2 AAC 64.100 - 2 AAC 64.370 is to implement the requirement of AS 44.64.060 to establish procedures for administrative hearings conducted by the office.

(b) The provisions of 2 AAC 64.100 - 2 AAC 64.370 apply to administrative hearings and proceedings conducted by the office and its administrative law judges unless

(1) the procedures are inconsistent with applicable statutory requirements;

(2) a statute exempts the hearing or proceeding from application of AS 44.64.060; or

(3) the chief administrative law judge has approved the use of different procedures in a written agreement for voluntary referral of a matter not required by statute or regulation to be referred to the office.

(c) If 2 AAC 64.100 - 2 AAC 64.370 apply to a hearing or proceeding as provided in (a) of this section, the procedures supersede any conflicting procedures in the regulations of the agency that referred the case or whose decision is the subject of the hearing or proceeding, except as may be provided by an applicable statute.

**2 AAC 64.110. Initiating an administrative hearing process.**

An administrative hearing within the mandatory jurisdiction of the office is initiated as a statute or regulation of the referring agency may provide. A notice of appeal or request for hearing may not be filed directly with the office by the person contesting the agency decision, except as provided by statute.

**2 AAC 64.120. Referral to the office.**

An agency that grants a request for a hearing within the jurisdiction of the office under AS 44.64.030(a) or other statute or regulation, or that elects to voluntarily refer a proceeding under AS 44.64.030(b), must deliver to the office within the time allowed by statute or regulation

(1) a completed notice of referral in the form prescribed by the office;

(2) a copy of the hearing request;

(3) a copy of the agency decision being contested;

(4) a copy of the record relied on to support the decision; and

(5) if desired, a request to participate under AS 44.64.060(c).

**2 AAC 64.130. Notice of denial of hearing request.**

Upon denying a request for hearing, an agency shall deliver a copy of the notice of denial, including a statement of the reasons for the denial as required by AS 44.64.060(b) to the chief administrative law judge.

**2 AAC 64.140. Stay of decision.**

An administrative law judge may stay the effect of an agency decision that is contested under this chapter or may vacate a stay granted by the agency, as provided in a statute or regulation or upon delegation by the final decision-maker of authority to order a stay.

**2 AAC 64.150. Notice of assignment.**

After receipt of a timely notice of appeal or of a referral under 2 AAC 64.120, the chief administrative law judge will assign the case to an administrative law judge and the office will distribute to the parties a notice of the assignment.

**2 AAC 64.160. Representation.**

(a) A party to an administrative hearing may be represented by an attorney or may be self-represented. An agency or entity is self-represented when acting through an authorized employee or officer. The administrative law judge may allow a self-represented party to be assisted by a person who is not an attorney and may impose reasonable limits on participation by the assistant.

(b) A party represented by an attorney in the administrative hearing shall file, or cause the attorney to file, and serve on the other parties a document that

(1) identifies the attorney; and

(2) provides the address, telephone number, facsimile number, and electronic mail address for the attorney, and

(A) the Alaska Bar Association number of the attorney; or

(B) if the attorney is not licensed to practice law in active status in this state, the name of each state in which the attorney is licensed to practice law in active status.

**2 AAC 64.170. Change of administrative law judge.**

(a) To change an administrative law judge assigned to hear a case, a party shall file a written notice and serve a copy of the notice on the other parties in the time allowed by AS 44.64.070(c).

(b) To request disqualification of an administrative law judge assigned to an administrative hearing, a party shall file a motion to disqualify and an affidavit as required by AS 44.64.070(b). Another party may respond to the motion within five days after the date of service. Failure to respond is a waiver of the right to request disqualification of the administrative law judge on the same or similar grounds. No later than five days after the time to respond has expired, the administrative law judge assigned to hear the case will either grant or deny the motion. Within five days after distribution of a denial of a motion to disqualify, the moving party may file a written objection with the chief administrative law judge for final determination under AS 44.64.070(b). If the chief administrative law judge is assigned to hear the case, the office will forward the objection to the attorney general for final determination under AS 44.64.070(b).

**2 AAC 64.180. Intervention.**

(a) The administrative law judge may allow a person to intervene in an administrative hearing if a statute or regulation provides for intervention and the person seeking to intervene shows that intervention is appropriate under the standards set by the applicable law.

(b) A person requesting to intervene shall serve a copy of the request on each party to the administrative hearing. Unless otherwise provided by the applicable law or ordered by the administrative law judge, a party may file an objection to a request to intervene within seven days after service of the request. A party filing an objection shall serve a copy of it on the other parties and on the person requesting to intervene.

**2 AAC 64.190. Consolidation and division.**

(a) The administrative law judge may consolidate, in whole or in part, two or more proceedings to be held under 2 AAC 64.100 - 2 AAC 64.370, if the administrative law judge determines that a joint hearing will expedite or simplify consideration of the issues and that consolidation will not prejudice a party.

(b) If the administrative law judge determines that dividing an administrative hearing into two or more parts for purposes of hearing or decision would expedite or simplify consideration of the issues and provide for a fairer hearing, the administrative law judge may divide the case into separate proceedings.

**2 AAC 64.200. Alternative dispute resolution.**

 (a) Unless otherwise provided by statute, regulation, or written agreement, the parties may engage in alternative dispute resolution, using procedures to which the parties have agreed, if approved by an administrative law judge. Alternative dispute resolution may consist of any method designed to facilitate a mutually agreeable solution, including supervised or unsupervised negotiation, mediation, use of a neutral fact-finder, and settlement conferences.

 (b) With the consent of the parties, an administrative law judge assigned to hear a case may postpone or continue a hearing for a specific time for alternative dispute resolution efforts, and may request that the chief administrative law judge assign another administrative law judge to oversee or conduct alternative dispute resolution efforts on one or more issues. If the chief administrative law judge assigns an administrative law judge to oversee or conduct alternative dispute resolution efforts, the time for preparation of a proposed decision under AS 44.64.060(d) is suspended during the period set for alternative dispute resolution. The administrative law judge overseeing or conducting alternative dispute resolution efforts will require the parties to report on the status of those efforts at least once every 30 days. If alternative dispute resolution efforts do not succeed within the time set, or if the parties fail to timely report, the administrative law judge overseeing or conducting alternative dispute resolution efforts will notify the administrative law judge assigned to hear the case to schedule it for hearing.

**2 AAC 64.210. Fast-track hearings.**

(a) If an administrative hearing is subject to a statutory or regulatory deadline for the issuance of a decision, and that deadline is shorter than the deadline set in AS 44.64.060, the hearing will be given scheduling priority as a fast-track hearing.

(b) An administrative law judge assigned to hear a fast-track hearing may use reasonable means consistent with due process of law to meet the statutory or regulatory deadline, including combined prehearing and hearing procedures, negotiated stipulations, accelerated briefing and discovery schedules, oral motions, and expedited alternative dispute resolution efforts.

(c) If at the time set for hearing or prehearing conference, the parties agree and the administrative law judge determines that the case is appropriate for alternative dispute resolution efforts, the assigned administrative law judge may oversee or conduct those efforts. If alternative dispute resolution efforts fail, and the administrative law judge determines that circumstances require a different person to hear the case, the administrative law judge will inform the chief administrative law judge and the chief will reassign the case.

**2 AAC 64.220. Prehearing conference.**

 (a) An administrative law judge may hold a prehearing conference if a conference will aid resolution of the case or the structuring of efficient and cost-effective proceedings. A prehearing conference may be scheduled by written or telephone notice to the parties or by written or oral agreement between the parties and the administrative law judge.

 (b) At a prehearing conference, the administrative law judge may address

 (1) simplification, clarification, consolidation, division, or limitation of issues;

(2) striking of immaterial issues;

(3) diversion of some or all issues for possible alternative dispute resolution;

(4) results of alternative dispute resolution efforts already undertaken;

(5) summary disposition of issues for which a material fact dispute does not exist;

(6) stipulations of facts and of the genuineness of documents;

 (7) facts on which official notice will be taken;

(8) a discovery plan, including the exchange of documents and witness lists, and subpoena requirements;

(9) prehearing evidentiary issues, including

(A) use of affidavits instead of oral testimony; and

 (B) objections to admission into the hearing record of written testimony, documents, papers, exhibits, or other submissions proposed by a party;

(10) deadlines for motions and responses to motions;

(11) scheduling of hearing and prehearing or posthearing matters, including closing argument; and

(12) any other matter that will aid in the fair, timely, efficient and cost-effective resolution of the administrative hearing.

**2 AAC 64.230. Voluntary dismissal.**

(a) At any time before the issuance of a proposed decision, a party who requested an administrative hearing may, without the consent of the other parties, voluntarily dismiss the case by providing written notice, or oral notice on the record during a prehearing conference or hearing, of the dismissal. Voluntary dismissal by the party under this section does not prohibit the agency or another party from exercising a right that may be available under law, including a right to a default hearing, to impose a penalty, or to enforce an agency order, if applicable.

(b) After a proposed decision has been issued, a party who requested the administrative hearing may voluntarily dismiss a case only with the consent of the other parties and the final decision-maker.

(c) An agency party may, by motion, request dismissal of an administrative hearing. The administrative law judge may grant the motion if, within the time allowed under 2 AAC 64.270 for a response, the party who requested the hearing consents in writing or orally on the record or fails to oppose dismissal.

**2 AAC 64.240. Documents exchange, discovery, and subpoenas.**

(a) The administrative law judge may require the parties to exchange documents to be offered as exhibits at the hearing and to exchange and file exhibit lists and witness lists before the hearing.

(b) The parties may not take depositions, serve interrogatories, requests for admission, or requests for production of documents, or otherwise engage in prehearing discovery unless

(1) an applicable statute or regulation allows discovery;

(2) the administrative law judge approves a discovery plan stipulated to by the parties; or

(3) the administrative law judge finds good cause for the discovery and issues an order describing the nature and scope of discovery allowed.

(c) The administrative law judge may issue subpoenas requiring the appearance of witnesses and production of evidence as provided in an applicable statute or AS 44.64.040. The party who requested the subpoena shall pay the witness's travel expenses if the witness is required to appear in person at a location more than 30 miles from the witness's home, and any witness fee allowed by law.

**2 AAC 64.250. Summary adjudication.**

 (a) A party may, by motion, request summary adjudication on one or more of the issues in an administrative hearing if a genuine dispute does not exist between the parties on an issue of material fact. The motion may be filed in writing as provided in a prehearing order or may be made orally, on the record, at the hearing. On a written motion, the other parties may respond in writing within the time set by 2 AAC 64.270 unless the administrative law judge orders another time or manner of response. On an oral motion, the other parties may respond within the time and in the manner prescribed by the administrative law judge. The administrative law judge may deny a motion made at or shortly before the hearing if the other parties cannot be given an adequate opportunity to respond without unduly delaying the hearing or the timely resolution of the case.

(b) If a motion for summary adjudication is supported by an affidavit or other documents establishing that a genuine dispute does not exist on an issue of material fact, to defeat the motion a party may not rely on mere denial but must show, by affidavit or other evidence, that a genuine dispute exists on an issue of material fact for which an evidentiary hearing is required.

**2 AAC 64.260. Hearings.**

 (a) An administrative law judge may order that an administrative hearing be conducted through one or a combination of the following methods, unless another method is prescribed by law or by the agreement governing a voluntary case referral:

(1) on motions with oral argument;

(2) on the written record and briefs or other correspondence, with or without oral argument;

(3) in an evidentiary hearing.

(b) The time and place for a hearing or oral argument shall be set by the administrative law judge assigned to hear the case, with due consideration for the convenience of the parties and witnesses and in accordance with any requirements of law on the timing or location of hearings.

(c) Unless applicable law or an order of the administrative law judge requires the physical presence of the parties or witnesses before the administrative law judge, a party, a witness, or a party's attorney or other authorized representative may participate in a hearing, oral argument, or prehearing conference by telephone. The party, party's attorney, or other authorized representative participating by telephone, or whose witness participates by telephone, shall bear the cost of telephonic participation unless the administrative law judge orders otherwise.

(d) Unless the administrative law judge orders otherwise, the sequence of argument and examination of witnesses must conform to the prehearing order.

(e) Unless the administrative law judge orders otherwise, a party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on matters relevant to the issues, even if that matter was not covered in the direct examination, impeach a witness regardless of the party who first called the witness to testify, and rebut adverse evidence. The administrative law judge may question a witness.

**2 AAC 64.270. Motions.**

(a) A party may, by motion, request a ruling or order from the administrative law judge on a procedural, evidentiary, or legal issue. A motion may be made in writing, if served on the other parties, or orally, if on the record, during a hearing or a prehearing conference. A non-moving party may respond to a motion. Within 15 days after service of the motion, and except as provided in (b) of this section or in an order of the administrative law judge, a party's response to a written motion must be filed with the administrative law judge and served on the other parties. A response to an oral motion must be made in the time and manner that the administrative law judge prescribes. The party who made the motion may not reply to a response unless the administrative law judge orders a reply.

(b) A party may file a motion to dispose of an administrative hearing without an evidentiary hearing, including a motion

(1) for summary adjudication under 2 AAC 64.250;

(2) to dismiss an administrative hearing for grounds allowed by law;

(3) to remand a case to the agency whose decision was contested; or

(4) for voluntary dismissal under 2 AAC 64.230.

 (c) If a party fails to oppose a motion within the time set for the response, the motion is ripe for decision, and the administrative law judge may issue an order based on the applicable law and the existing record.

**2 AAC 64.280. Oral argument.**

(a) If the parties have agreed, or the prehearing order has established, that an administrative hearing will be decided on a written motion or on the written record and briefs, the administrative law judge will hear oral argument upon a written request of a party that is filed within three days after service of the last brief allowed to be filed or as provided in a prehearing order.

 (b) Oral argument on a motion that is not covered in (a) of this section is at the discretion of the administrative law judge.

**2 AAC 64.290. Evidence.**

(a) The administrative law judge may

(1) admit evidence of the type on which a reasonable person might rely in the conduct of serious affairs;

(2) refuse to admit evidence that is unduly repetitious; and

(3) exclude any documentary, testimonial, or physical evidence that was not disclosed as required in an approved discovery plan or by a discovery order, unless the failure to disclose was due to

(A) surprise;

(B) the new discovery of evidence that could not have been disclosed sooner through the exercise of due diligence;

(C) the misconduct of another party; or

(D) discovery, after the deadline for the disclosing evidence, of evidence that rebuts another party's evidence.

(b) The rules of evidence used in the courts of the state do not apply to an administrative hearing except as a guide, unless the parties stipulate to the application of those rules. The rules of privilege apply as they apply in civil actions in the courts of the state.

(c) Oral evidence may be taken only under oath or affirmation. An administrative law judge may administer an oath or affirmation.

(d) Testimonial evidence may be given by affidavit unless an applicable law, written agreement, or order of the administrative law judge requires that testimony be given in person or telephonically. The administrative law judge will condition the use of an affidavit in lieu of live testimony at the hearing on the ability of an opposing party to cross-examine the witness and to evaluate the evidence. Affidavits submitted to support a motion, including a motion requesting disqualification of an administrative law judge, or submitted in place of in-person or telephonic testimony at a hearing, if allowed, must be made under oath or affirmation, must be based on personal knowledge, must set out facts that would be admissible in evidence, and must show affirmatively that the affiant is competent to testify to the matters stated.

(e) Unless otherwise provided by applicable statute or regulation, the burden of proof and of going forward with evidence is on the party who requested the hearing or made the motion under consideration, and the standard of proof is preponderance of the evidence. To prove a fact by a preponderance of evidence, a party with the burden of proof must show that the fact more likely than not is true.

**2 AAC 64.300. Official notice.**

(a) If a fact may be judicially noticed by the courts of the state, an administrative law judge may take official notice of that fact by informing the parties of, and referring in the administrative hearing record to, the fact that the administrative law judge intends to officially notice. The administrative law judge, on the request of a party, will give the party a reasonable opportunity to present evidence or authority to refute the officially noticed facts.

(b) Nothing in this section precludes the final decision-maker from taking official notice of a generally accepted technical or scientific matter within the final decision-maker's special expertise if allowed by law.

**2 AAC 64.310. Supplementation of the record.**

Before the administrative law judge issues a proposed or final decision, the administrative law judge may allow a party to supplement the record for good cause shown, if another party does not object or, upon objection, is afforded a reasonable opportunity to refute the supplemental evidence.

**2 AAC 64.320. Failure to participate.**

(a) If a party who filed a notice of appeal or request for hearing fails to participate in a proceeding, the administrative law judge may order or propose the dismissal of the case or the affirmation of the decision contested.

(b) If an agency decision is the subject of an administrative hearing, and the agency representative fails to participate in a proceeding, the administrative law judge may find contested facts against the agency and may, if consistent with the law and the record,

(1) decide the case, or propose that the case be decided, in favor of the party who filed the notice of appeal or hearing request; and

(2) order or propose appropriate relief.

(c) If a person with an interest that will be affected by a decision in an administrative hearing is served with a timely notice of the hearing or other proceeding, and the person fails to participate, the person may be bound by the decision as if the person had participated.

(d) In this section, “participate” means to appear in person, by telephone, or in writing at the hearing or other proceeding that could have the effect of disposing of issues in the case.

(e) Nothing in this section relieves the administrative law judge from the requirement to prepare a proposed decision as required in AS 44.64.060 or another statute or regulation or prohibits a party from filing a request for action by the final decision-maker under AS 44.64.060(e).

**2 AAC 64.330. Proposed findings and conclusions.**

An administrative law judge may allow or require the parties to submit proposed findings of fact and conclusions of law and may use them as an aid in the decision-making process. An administrative law judge need not issue a ruling accepting or rejecting proposed findings and conclusions.

**2 AAC 64.340. Decisions.**

 (a) Unless an administrative hearing is exempted by statute from the hearing procedures in AS 44.64.060, the administrative law judge assigned to hear a case shall issue a proposed decision as provided in AS 44.64.060(d) and (e). The office will distribute a copy of the proposed decision to the parties and final decision-maker.

(b) A party may request that the final decision-maker take an action listed in AS 44.64.060(e). The request must be filed within 10 days after distribution in a fast-track hearing and within 20 days after distribution in another administrative hearing. The request must state the basis for the action requested. A final decision-maker may not issue a final decision until the time allowed for a request under this subsection has expired, unless each of the parties has filed, or waived the right to file, a request.

(c) A final decision-maker shall transmit a final decision to the office and the office will distribute it to the parties, unless a statute requires differently. If a statute requires that a final decision-maker distribute the final decision to the parties, the final decision-maker must distribute it to the office at the same time.

(d) An administrative law judge may, by stipulation of the parties or upon a motion under 2 AAC 64.270, remand a matter to the agency whose decision is contested, unless otherwise required by statute. If the ability of the party who initiated the administrative hearing to pursue the administrative hearing following the action on remand is preserved, a proposed or final decision under this section or AS 44.64.060 need not accompany the remand order. If a remand order has the effect of concluding the administrative hearing, the requirements in AS 44.64.060 and this section for a proposed or final decision apply. Nothing in this subsection interferes with a statutory requirement for final decision-maker approval of a remand

**2 AAC 64.350. Reconsideration.**

(a) Before action by the final decision-maker, reconsideration to correct typographical or other manifest errors in a proposed decision may be requested by a party and granted by the administrative law judge.

 (b) A final decision-maker may not reconsider a final decision issued after an administrative hearing subject to AS 44.64.060, except to correct typographical or other manifest errors, unless a statute provides for reconsideration.

(c) A final decision-maker may reconsider a final decision issued after an administrative hearing not subject to AS 44.64.060 as provided in statute or regulation.

(d) The procedure for reconsideration is as provided in the statute or regulation authorizing reconsideration. A party who requests reconsideration shall provide a copy of the request to the office.

**2 AAC 64.360. Sanctions.**

(a) If a party fails to comply with an order, including an order to provide documents or information to another party, the administrative law judge may impose an appropriate sanction, proportionate to the party's conduct, including denial of a motion or other request, denial of the admission of evidence into the hearing record, or dismissal of the case. An administrative law judge may not impose costs or attorneys fees as a sanction, except as provided in (b) of this section.

(b) If AS 44.64.040(b) or another statute or regulation allows, an administrative law judge may order a party, a party's attorney, or other authorized representative to pay reasonable expenses to a party if the administrative law judge, after providing notice and an opportunity to be heard to the person, finds that expenses were incurred because the person acted in bad faith or used tactics frivolously or solely to cause unnecessary delay. The administrative law judge may require the party who incurred the expenses to provide proof of the amount and the reason for an expenditure, but shall require proof of an attorney's work, time, and fees before ordering payment of attorney fees to a party. The administrative law judge may require other parties to the sanction proceedings to submit evidence of attorney time and fee details for use in determining the reasonableness of the fees sought. In the order, the administrative law judge will make specific findings of the reason for the sanction and the basis for the amount to be paid.

**2 AAC 64.370. Administrative hearing record.**

(a) The record for the administrative hearing consists of the

(1) referral documents submitted to the office under 2 AAC 64.120;

(2) agency record or the agreed portion of that record, if the administrative hearing is a contest of, or appeal from, an agency decision;

(3) documents and exhibits filed for consideration by the administrative law judge in the case;

(4) recordings of oral proceedings before the administrative law judge, including

(A) a recording of a prehearing conference, oral argument, or evidentiary hearing; and

(B) the transcripts of recordings prepared at the direction, or with the consent, of the office or a court and filed with the office;

(5) the written orders and decisions, including a proposed decision and final decision as required in 2 AAC 64.340, prepared by the administrative law judge and the final decision-maker; and

(6) the recordings of oral proceedings, and the transcripts of recordings prepared at the direction, or with the consent, of the office or a court and filed with the office, except that recordings of privileged or confidential deliberations on a decision by the final decision-maker may not be included in the administrative hearing record unless ordered by a court.

(b) If a decision in an administrative hearing conducted by the office is appealed to court, the office will, at the request of the agency whose decision is appealed, prepare the administrative hearing record and transmit it to the court. The agency is responsible for communicating, directly or through legal counsel, with the court and other parties regarding preparation of the record, including such issues as supplementation of the record, payment of the cost to prepare the record, and extension of the time to file the record. The office will certify and transmit the record to the court, but an administrative law judge is not a representative of the decision-making agency, may not appear in court, and may not file a motion or other document with the court. The agency involved in the administrative hearing shall reimburse to the office the actual expenses the office incurs to prepare the record.

**Article 3: General Provisions**

**2 AAC 64.900. Time computations.**

(a) The time in which to perform an act required or permitted under this chapter is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or state holiday. If the last day is a Saturday, Sunday, or state holiday, that day is excluded and the act shall be performed on or before the end of the next state business day unless an extension of time is granted.

(b) Whenever an act required or permitted by this chapter is performed in response to a notice or other document that has been served by mail upon a party or the party's representative, three days are added to the period computed under (a) of this section.

**2 AAC 64.910. Adjustment of deadlines.**

Except as provided in AS 44.64.060 or another statute, as applicable, the administrative law judge, for good cause shown or with the agreement of the parties, may shorten or extend a deadline established in this chapter or in an agency regulation.

**2 AAC 64.920. Method of filing and service.**

 (a) A document required to be filed under this chapter or by order of an administrative law judge must be filed by first-class mail or personal delivery, unless a statute or order of the administrative law judge requires another method. A party shall serve the other parties, directly or through the party's attorney, with legible copies of documents and exhibits filed with the office. A copy of the agency record and the case referral documents submitted as provided in AS 44.64.060(b) and 2 AAC 64.120 need not be served on the parties unless required by statute or agreement.

(b) A document required to be served must be served by first-class mail or personal delivery, unless a statute, or order of the administrative law judge, requires a different manner of service. The serving party shall show proof of service by including on, or attaching to, the document a statement identifying the persons served and the date and manner of service used.

(c) If a party is represented by an attorney in the case before the office, service must be made upon the attorney. Service on an attorney constitutes service on all of the parties represented by the attorney.

(d) If a person is entitled by law to participate in a case and to service of documents, but cannot be served directly because an agency party is prohibited from disclosing the person's address, a party may serve the person by first-class mail, personal delivery, or other method allowed in a statute or order of the administrative law judge, in care of the agency party. The party shall indicate in the proof of service that the person was served at the agency. The agency party shall forward the document served to the person.

(e) Filing or service of a document by mail is timely if the postmark indicates the document was mailed on or before the date due, unless an order issued by the office provides that filing or service is effective on receipt.

**2 AAC 64.930. Form of filings.**

(a) An original paper filed with the office must be on eight and one-half by eleven inch white paper, and must be typewritten or printed mechanically, unless the paper is a form that was provided by an agency and completed in handwriting or the party filing the paper is unrepresented and does not have access to a typewriter or computer printer. An unrepresented party without access to a typewriter or computer printer may submit handwritten original papers. A paper, whether an original or copy, filed with the office must be legible.

(b) An exhibit filed with the office must be marked with the name of the party filing it and exhibit number, unless otherwise ordered by the administrative law judge, and its pages must be numbered consecutively.

**2 AAC 64.940. Contact information.**

(a) A party to an administrative hearing, and the party's representative, shall keep the office and the other parties informed of the party's and representative's current contact information, including mailing address, telephone number, facsimile number, and electronic mail address, if any.

(b) A person who makes a complaint under 2 AAC 64.070 shall keep the office informed of the person's current contact information, including mailing address, telephone number, facsimile number, and electronic mail address, if any, until the person receives written notice of dismissal or referral of the complaint to the attorney general. Failure to keep the office informed of current contact information may result in dismissal of the complaint if the failure interferes with the investigation into the complaint.

**2 AAC 64.950. Confidentiality.**

(a) A document filed with or prepared by the office in an administrative hearing is confidential only as provided by law or court order. An agency or other party filing a confidential document shall provide written notice to the administrative law judge and the other parties of the confidentiality of the document and the law or court order requiring confidentiality.

(b) An administrative law judge assigned to hear an administrative hearing, or to oversee or conduct alternative dispute resolution, may order the parties to file documents under seal and keep them confidential if confidentiality is required by law. An administrative law judge will close all or a portion of a proceeding to the public if necessary to prevent disclosure of confidential information, and may close all or a portion of a proceeding to the public to protect the privacy of a non-party witness.

(c) A complaint under 2 AAC 64.070 of a violation of 2 AAC 64.010 - 2 AAC 64.050, and consideration of the complaint under 2 AAC 64.080, is confidential until final action by the attorney general, if the complaint is referred to the attorney general, or by the chief administrative law judge, if it was not, unless a court order or an agreement between the complaining person and the hearing officer or administrative law judge named in the complaint requires disclosure. However, the office will provide a copy of the complaint to the hearing officer or administrative law judge who is the subject of the complaint.

(d) An administrative law judge may not admit into the record, or rely upon in reaching a proposed or final decision, a document required by law to be kept confidential unless the document is available to the parties or unless the administrative law judge can provide a party without access an alternate means of using or refuting the facts evidenced by the document that is consistent with principles of fairness and due process.

(e) Nothing in this section prohibits the office from publishing the decisions of the office or reporting on complaints alleging violations of 2 AAC 64.010 - 2 AAC 64.050 if the office can protect against disclosure of confidential information by means that include using pseudonyms, redacting identifiers or confidential information, and generalizing information to conceal private or confidential details.

**2 AAC 64.990. Definitions.**

(a) In this chapter, unless the context requires otherwise,

(1) “administrative hearing” has the meaning given in AS 44.64.200 and refers to proceedings conducted by the office in a case referred to or otherwise within the office's jurisdiction, regardless of whether the case is an appeal or an original action, or whether it requires a proceeding to hear argument or evidence;

(2) “administrative law judge” has the meaning given in AS 44.64.200;

(3) “agency” has the meaning given in AS 44.64.200;

(4) “chief administrative law judge” means an individual appointed to the position created by AS 44.64.020 or the individual's designee acting as provided under a specific delegation of authority;

(5) “discovery” means the use of subpoenas, interrogatories, requests for production of documents or other things, requests for admission, depositions, and other methods provided in statute or regulation by which a party may discover information within the knowledge or control of a person;

(6) “document” means a written or electronic record of information, whatever the form, “document” includes books, maps, and papers of all types, and audio, video, or digital recordings;

(7) “executive branch” means a branch of state government, other than the legislative or judicial branch, or a municipality or subunit of a municipality;

(8) “final decision-maker” means the individual, board, or commission with the authority by statute or under a lawful delegation to issue a final decision in the administrative hearing that will be appealable to the superior court;

(9) “financial interest” means involvement in, or ownership of, a business or property interest, or a professional or personal relationship, that is a source of income or other economic benefit to a person;

(10) “hearing officer” has the meaning given in AS 44.64.200;

(11) “hearing request” means the document filed to contest an agency decision or initiate the administrative hearing process or to respond to a disciplinary or enforcement action initiated by an agency;

(12) “immediate family member” means

(A) a spouse;

(B) another individual cohabiting with the individual in a conjugal relationship that is not a legal marriage;

(C) a child, including a stepchild and an adoptive child;

(D) a parent, sibling, grandparent, aunt, or uncle; or

(E) a parent or sibling of the person's spouse;

(13) “improper ex parte communication” means an oral or written communication between a decision-maker, whether intermediate or final, and a party to an administrative hearing, a witness in a proceeding, or a person trying to influence the decision-maker that occurs outside of the presence of the other parties and without notice and an opportunity to participate being given to the other parties;

(14) “motion” means a request, made by a party orally on the record in a proceeding or in a written document served on the other parties, for action by an administrative law judge;

(15) “office” has the meaning given in AS 44.64.200;

(16) “original paper” means a document created for filing in an administrative hearing before the office; “original paper” includes notices, requests, motions, briefs, affidavits, and reports;

(17) “party” means

(A) a person who requests an administrative hearing;

(B) the agency appearing before the office in the case; and

(C) another person entitled by statute, regulation, or order of the administrative law judge to participate in the hearing;

(18) “person” has the meaning given in AS 01.10.060;

(19) “personal interest” means an interest in or involvement with an organization, whether fraternal, nonprofit, for profit, charitable, or political, that benefits a person;

(20) “subpoena” means a written command to appear at a certain time and place to testify, or to appear at a certain time and place to produce books, papers, and other things, and testify.

(b) In AS 44.64.050(a) and this chapter, “private practice of law”

(1) means the application, on behalf of a private person or non-governmental entity for pay or other compensation, of legal principles and judgment to the circumstances or objectives of others using the knowledge and skill of a person trained in the law; and

(2) includes

(A) giving advice or counsel on legal rights and duties;

(B) selecting, drafting, or completing documents or agreements affecting the legal rights of others, or assisting another person in completing forms or preparing documents to be filed in a court or administrative proceeding;

(C) representing another in court, in an administrative hearing or other proceeding, or in another formal dispute resolution process;

(D) negotiating legal rights and responsibilities on behalf of another;

(E) serving as a court-appointed guardian, conservator, or guardian ad litem;

(F) serving in a neutral capacity as a mediator, arbitrator, conciliator, or facilitator;

(G) participating on behalf of another in labor negotiations, arbitrations, or conciliations; and

(H) acting as a legislative lobbyist.