

CHAPTER 7505
DEPARTMENT OF PUBLIC SAFETY
CRIME VICTIMS REPARATIONS BOARD
HEARING PROCEDURES

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7505.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Crime Victims Reparations Board.

Subp. 3. **Party.** "Party" means any person, including a claimant, whose legal rights, duties, or privileges may be determined in a contested case.

Subp. 4. **Person.** "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, joint stock company, unincorporated association or society, municipal corporation, or any government or governmental subdivision, unit, or agency, other than a court of law.

Statutory Authority: *MS s 611A.56*

7505.0200 PURPOSE.

This chapter is intended to assure that no person before this board shall have his rights, privileges, or duties determined without regard to fundamental fairness.

Statutory Authority: *MS s 611A.56*

7505.0300 LEGAL REPRESENTATION.

Any claimant, or any party in a contested case, may be represented by counsel throughout any proceedings before the board.

Statutory Authority: *MS s 611A.56*

7505.0400 COMMENCEMENT OF CLAIM.

A claim shall be deemed to have been commenced upon receipt by the board of a preliminary form completed by a claimant or his representative under oath.

Statutory Authority: *MS s 611A.56*

7505.0500 ASSIGNMENT AND INVESTIGATION OF CLAIM.

Within ten days after the filing of a claim, the chairman shall assign the claim or cause it to be assigned to himself or to some other member of the board. The member to whom the claim has been assigned shall cause an investigation to be conducted into the validity of the claim.

Statutory Authority: *MS s 611A.56*

7505.0600 SCOPE OF DISCOVERY.

Subpart 1. **Information obtainable.** Pursuant to the investigation of a claim, the member to whom the claim has been assigned or some agent of the board shall obtain from the claimant and other persons all information reasonably related to the validity of the claim, including but not limited to information relating to the following subjects:

- A. the occurrence of a crime;
- B. the extent of the claimant's economic loss;
- C. the extent to which collateral sources are available to the claimant;
- D. the extent to which the claimant, or the victim through whom he claims, has cooperated with law enforcement officials; and
- E. the extent to which the claimant, or the victim through whom he claims, has been guilty of contributory misconduct.

Subp. 2. **Subpoena.** In the course of an investigation or a hearing pursuant to part 7505.0900, the member of the board to whom a claim has been assigned may, upon his own motion or the motion of a claimant or the attorney general, issue subpoenas for the appearance of witnesses or for the production of books, records, or other documents or initiate such other discovery proceedings as by law are allowed.

Statutory Authority: *MS s 611A.56*

7505.0700 SUPPLEMENTARY INFORMATION, ASSIGNMENT, SUBROGATION.

After the filing of a claim, the claimant or his representative shall complete under oath and file with the board a supplementary form containing such information as the board or its agent deems relevant to the investigation of the claim. Failure by a claimant or his representative to complete the supplementary form, or otherwise to cooperate with the investigation, may constitute a ground for denial of a claim.

The claimant shall assign his rights to recover benefits or advantages from any source which is, or if readily available to the claimant would be, a collateral source and which is not deducted from the final award; provided that such assignment shall not exceed the amount of the final award. The claimant shall further agree to cooperate fully with the board in any subrogation action brought by the board.

Statutory Authority: *MS s 611A.56*

7505.0800 INVESTIGATION REPORTS.

Upon completion of an investigation of a claim, the person investigating the claim shall file a written report with the member of the board to whom the claim has been assigned. Copies of the completed preliminary and supplementary forms and of the subrogation agreement shall be included with the report. The board shall treat the report as confidential to the extent permitted by law; provided, however, that in any contested claim, the claimant or his authorized representative shall have the right to read the report.

Statutory Authority: *MS s 611A.56*

7505.0900 DECISION.

Within 20 days after receipt of the report of the investigation, the member of the board to whom the claim has been assigned shall, after examining the report and the forms submitted by the claimant, either decide the claim in favor of the claimant in the amount claimed or order a hearing of the claim.

Statutory Authority: *MS s 611A.56*

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7505.1000 HEARING BEFORE BOARD MEMBER.

If a member of the board, pursuant to part 7505.0900, orders a hearing of a claim, he shall serve a notice of hearing on the claimant not less than ten days prior to the hearing. At the hearing the claimant shall have the right to testify; to present witnesses, evidence, and argument; and to cross-examine witnesses called by the board member. The rules of evidence shall be as stated in part 7505.2200, subpart 3.

Statutory Authority: *MS s 611A.56*

7505.1100 DECISION BY BOARD MEMBER.

Within 30 days after a hearing pursuant to part 7505.1000, the board member shall issue a decision either granting an award to the claimant or denying the claim.

Statutory Authority: *MS s 611A.56*

7505.1200 HEARING BEFORE THE FULL BOARD.

If a claimant, within 30 days after receipt of the decision of the board member to whom his claim was assigned, or a member of the board, within 30 days after the filing of the report of the decision, applies in writing to the board for consideration of the decision by the full board, a hearing before the full board shall be conducted according to law and the procedures set forth in parts 7505.1300 to 7505.2400. Any proceeding pursuant to such a request shall be treated as a contested case within the meaning of Minnesota Statutes, chapter 14.

Statutory Authority: *MS s 611A.56*

7505.1300 HEARING OFFICER.

The board shall appoint a hearing officer before commencing a contested case.

The board may appoint as hearing officer any person except the member of the board to whom the claim was originally assigned.

The appointment of the hearing officer shall, to the extent permitted by law, grant the hearing officer such authority as the board deems necessary to hear the case.

Statutory Authority: *MS s 611A.56*

7505.1400 PROCEDURE AND NOTICE AFTER REQUEST FOR HEARING.

Subpart 1. **Notice requirements.** Within ten days following receipt of a request for a hearing pursuant to part 7505.1200, the board shall appoint a hearing officer and commence the contested case by serving upon all known parties a copy of the document of initiation and a notice stating:

- A. the commencement of the contested case;
- B. the time and place of the prehearing conference, if any;
- C. the purpose of the prehearing conference;
- D. the name of the hearing officer;
- E. the rights of the parties to counsel and to a formal hearing;
- F. that failure to attend may prejudice the party's right in this and subsequent proceedings; and
- G. these rules or a citation thereto.

Subp. 2. **Alternative notice.** If the hearing officer decides that no prehearing conference will be held, notice of hearing pursuant to part 7505.2100 shall be given.

Statutory Authority: *MS s 611A.56*

7505.1500 INFORMAL DISPOSITION.

Informal disposition may be made of any contested case or any issue therein by stipulation, agreed settlement, or consent order at any point in the proceedings.

Statutory Authority: *MS s 611A.56*

7505.1600 DEFAULT.

The hearing officer may dispose of a contested case adverse to a party which defaults. Disposition by default shall occur only after the party against whom default is proposed, having notice, fails to appear.

Statutory Authority: *MS s 611A.56*

7505.1700 INTERVENTION.

Upon timely application any person shall be permitted to intervene in a contested case upon a showing that his legal rights, duties, or privileges may be determined or affected in the contested case, unless in the discretion of the hearing officer such person's interest is adequately represented by one or more parties participating in the case.

Statutory Authority: *MS s 611A.56*

7505.1800 CONSOLIDATION.

Subpart 1. Requirements before consolidation may be ordered. Whenever, before hearing on any contested case, the board, either on its own motion or upon petition by any party, determines that separate contested cases present substantially the same issues of fact or law, that a holding in one case would affect the rights of parties in another case, and that consolidation would not substantially prejudice any party, the board may order such cases consolidated for a single hearing on the merits. Notwithstanding the requirements of this part, the parties may stipulate and agree to such consolidation.

Subp. 2. Notice of consolidation. Within five days following an order for consolidation the board shall serve on all parties a notice of consolidation. Such notice shall contain:

- A. a description of the cases for consolidation;
- B. the reasons for consolidation;
- C. cancellation of all prehearing conferences for the cases consolidated;

and

D. notification of the consolidated prehearing conference in the same fashion prescribed for notice of prehearing conferences.

Subp. 3. Objection to consolidation. The following procedures apply to objections to consolidation:

A. **Petition for severance.** Any party may object to consolidation by filing with the board prior to final determination a petition for severance from consolidation, setting forth petitioner's name and address, the designation of his case prior to consolidation, and the reasons for his petition. Briefs may be filed, evidence received, and oral argument heard at such time as the hearing officer deems proper.

B. **Determination.** When such a petition is filed, the hearing officer shall set aside a time for receiving evidence and oral argument, and determining, as a part of the record in the case, whether consolidation prejudices petitioner. If the hearing officer finds that consolidation would prejudice petitioner, he may order such severance or other relief as he deems necessary.

Statutory Authority: *MS s 611A.56*

7505.1900 DISQUALIFICATION BY PREJUDICE.

A hearing officer or any board member shall withdraw from participation in

a contested case at any time prior to the final determination if he deems himself disqualified for any reason. Upon the filing in good faith of a timely and sufficient petition of prejudice the hearing officer shall determine the matter as a part of the record and decision in the case.

Statutory Authority: *MS s 611A.56*

7505.2000 PREHEARING CONFERENCE.

Subpart 1. Purpose. The purposes of the prehearing conference are to simplify the issues to be determined and to reach a settlement on those issues without the necessity for further hearing.

Subp. 2. General procedure. A prehearing conference may be held at the discretion of the hearing officer preparatory to each contested case hearing. The prehearing conference shall be an informal proceeding conducted fairly and expeditiously by the hearing officer. Agreements on the simplification of issues shall be put in the form of stipulations and entered on the record. Any final settlement shall be set forth in a settlement agreement or consent order and, after approval by the board, be made a part of the record.

Subp. 3. Dismissal. The hearing officer may, at any stage of the proceedings, including the prehearing conference, after all parties have had an opportunity to present their views, dismiss any sham, capricious, or frivolous case or any case not within the board's jurisdiction, subject to approval by the board.

When cases before the board are consolidated pursuant to part 7505.1800, a consolidated prehearing conference may be held in lieu of separate conferences for each case and notice thereof given as provided in part 7505.1400.

Statutory Authority: *MS s 611A.56*

7505.2100 NOTICE OF HEARING REQUIREMENTS.

Not less than 30 days prior to the hearing date, the board shall serve a notice of hearing on all parties to the case. Such notice shall contain:

- A. the time and place of the hearing;
- B. the purpose and procedure for the hearing;
- C. the issues to be determined; and
- D. the name of the hearing officer who will preside.

Statutory Authority: *MS s 611A.56*

7505.2200 PROCEDURAL RIGHTS AT THE HEARING.

Subpart 1. In general. All parties shall have the right to a hearing before the board, at which hearing the parties may cross-examine witnesses, and present evidence, rebuttal testimony, and argument with respect to the issues.

Subp. 2. Witnesses. Any party may be a witness or may present witnesses on his behalf at a hearing. All testimony at a hearing shall be under oath or affirmation. Every party shall have the right of cross-examination of witnesses who testify.

Subp. 3. Rules of evidence. The rules of evidence for the hearing are:

A. The hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent men in the conduct of their affairs. The hearing officer shall give effect to the rules of privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial, or repetitious may be excluded.

B. All evidence to be considered in the case, including all records and documents in the possession of the board, shall be offered and made a part of the record in the case. No other factual information or evidence shall be considered in the determination of the case.

C. Documentary evidence in the form of copies or excerpts may be

received or incorporated by reference in the discretion of the hearing officer or upon agreement of the parties.

D. The hearing officer may take notice of judicially cognizable facts and, in addition, may notice technical facts within his specialized knowledge. Where final determination rests on official notice of material facts not appearing in the evidence in the record, a party is entitled, upon timely request, to an opportunity to rebut such facts.

E. In all cases the claimant must establish his entitlement to reparations and the amount thereof by a preponderance of the evidence.

Subp. 4. **Subpoena.** Any party may request that the hearing officer issue subpoenas for the appearance of witnesses or for the production of books, records, or other documents or that he initiate such other discovery procedures as by law are allowed. Such requests may be accompanied by evidence supporting the need for such subpoena.

Subp. 5. **Official record.** Requirements pertaining to the record of the hearing are:

A. The board shall prepare an official record in each contested case.

B. The record in a contested case shall contain:

(1) all pleadings including documents of initiation and commencement and the answers thereto, motions, and intermediate rulings;

(2) evidence received or considered;

(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 hearing officer; and

(7) all memoranda or data other than advice of legal counsel submitted to the hearing officer by the board staff in connection with the case.

C. **Transcript.** A verbatim record of the hearing shall be taken by court report or recording equipment. A court reporter shall be used if demanded by any party. Unless the board agrees to bear the expense of the court reporter, such expense shall be paid by the demanding party.

The verbatim record will not be transcribed unless requested by a party. If a transcript is requested, the board may require the requesting party to pay the reasonable cost of preparing the transcript.

Subp. 6. **Conduct of hearing officer.** The hearing officer shall take no part in any preliminary investigation or inquiry into the facts or issues involved in the contested case except as provided in part 7505.2000. He shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, including the board, its employees or agents, or, in connection with any issue of law, with any party, including the board, its employees or agents, or his representative, except upon notice and opportunity for all parties to participate.

Subp. 7. **Hearing procedure and sequence.** Subject to relevant provisions of law or board rule, the hearing procedure and sequence of events shall be as determined by the hearing officer.

Subp. 8. **Decorum.** The hearing officer may prohibit the operation of a television, newsreel, motion picture, still, or other camera, or of lights or other devices used in connection with the camera in the hearing room while the hearing is in progress, if such operation would, in his opinion, interfere with or disrupt the hearing. The hearing officer may also prohibit the operation of mechanical recording devices in the hearing room while the hearing is in progress, if such operation would, in his opinion, interfere with or disrupt the hearing.

Pursuant to and in accordance with the provisions of Minnesota Statutes, section 624.72, no person shall interfere with the free, proper, and lawful access

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to or egress from the hearing room. No person shall interfere with the conduct of, disrupt or threaten interference with or disruption of the hearing. In the event of such interference or disruption or threat thereof, the hearing officer shall read this subpart to those persons causing such interference or disruption and thereafter proceed as he deems appropriate.

Statutory Authority: *MS s 611A.56*

7505.2300 BOARD DECISION.

Subpart 1. Basis for determination. No factual information or evidence which is not a part of the record shall be considered by the board in the determination of a contested case.

The board may use its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented in the case.

Subp. 2. Decisions and orders. Requirements for decisions and orders are:

A. Formal decision or order with reasons required. Every decision or order rendered by the board in a contested case shall be in writing or stated in the record and shall be accompanied by a statement of the reasons therefor. The statement of reasons shall include a concise statement of the conclusions upon each contested issue of fact necessary to the decision.

A decision or order on a petition for severance, petition for intervention, petition of prejudice, on noticed facts which are challenged, or on a petition for rehearing shall be rendered in accordance with this part.

B. Service and contents. Every decision or order shall be served on all parties to the case. It shall contain:

- (1) a statement of the decision or order in the case;
- (2) a statement of the reasons therefor; and
- (3) an affidavit of service.

Subp. 3. Default. When a party with adequate notice fails to plead or otherwise appear within the time allowed therefor by this chapter or by statute, judgment by default may be entered against him.

Statutory Authority: *MS s 611A.56*

7505.2400 REHEARING.

Subpart 1. Scope. The board may, upon request or its own motion and for good cause shown, reopen, rehear, and redetermine a contested case after a final decision adverse to a party to the contested case has been rendered. This right may be exercised until it is lost by appeal or the granting of a writ of certiorari or until a reasonable time has run.

Subp. 2. Obtaining a rehearing. Procedures for obtaining a rehearing are:

A. At any time prior to the board's loss of the right to rehear a contested case, any party to that case may request a rehearing by filing a petition for rehearing. Such petition shall contain:

- (1) the name and address of the petitioner;
- (2) the board designation for the case; and
- (3) the reasons for the petition.

B. The board may, on its own motion, for good cause stated in the record, reopen, rehear, and redetermine a contested case if the decision in that case was adverse to a party to that case.

C. A party against whom a default has been adjudged pursuant to part 7505.2300, subpart 3, may obtain a rehearing upon a timely showing of good cause for his failure to appear or plead.

D. The board shall grant or deny a petition for rehearing as a part of the record in the case. Such petition shall be granted if there appears on the face of

the petition and the record irregularities in the proceedings, errors of law occurring during the proceedings, newly discovered material evidence, a lack of substantial evidence to support the decision or good cause for failure to appear or plead. Evidence and argument may be presented at the discretion of the board in written or oral form or both by any party to the contested case with respect to the petition.

Subp. 3. Rehearing notice, conduct, and decision. Requirements for rehearing notice, conduct, and decision are:

A. Notice of rehearing must be provided in the same manner prescribed for notice of hearing.

B. A rehearing in a contested case shall be conducted in the same manner prescribed for a hearing.

C. The decision after rehearing shall be made in the same manner prescribed for the decision after a hearing.

Statutory Authority: *MS s 611A.56*

7505.2500 EMERGENCY REPARATIONS NOT PREEMPTED.

Nothing contained in this chapter is intended to preempt or repeal the board's power to grant emergency reparations where it deems such reparations necessary and desirable.

Statutory Authority: *MS s 611A.56*

7505.2600 CRIMINAL PROSECUTION.

Nothing contained in this chapter is intended to preempt or repeal the board's power to suspend or postpone the proceedings on a claim if a criminal prosecution arising out of the incident which is the basis of the claim has been commenced or is imminent.

Statutory Authority: *MS s 611A.56*