

TEXAS GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE
CHAPTER 2001. ADMINISTRATIVE PROCEDURE
SUBCHAPTER C. CONTESTED CASES: GENERAL RIGHTS AND PROCEDURES

TGC, §2001.058. HEARING CONDUCTED BY STATE OFFICE OF ADMINISTRATIVE HEARINGS.

- (a) This section applies only to an administrative law judge employed by the State Office of Administrative Hearings.
- (b) An administrative law judge who conducts a contested case hearing shall consider applicable agency rules or policies in conducting the hearing, but the state agency deciding the case may not supervise the administrative law judge.
- (c) A state agency shall provide the administrative law judge with a written statement of applicable rules or policies.
- (d) A state agency may not attempt to influence the finding of facts or the administrative law judge's application of the law in a contested case except by proper evidence and legal argument.
- (d-1) On making a finding that a party to a contested case has defaulted under the rules of the State Office of Administrative Hearings, the administrative law judge may dismiss the case from the docket of the State Office of Administrative Hearings and remand it to the referring agency for informal disposition under Section [2001.056](#). After the case is dismissed and remanded, the agency may informally dispose of the case by applying its own rules or the procedural rules of the State Office of Administrative Hearings relating to default proceedings. This subsection does not apply to a contested case in which the administrative law judge is authorized to render a final decision.
- (e) A state agency may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the agency determines:
 - (1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies provided under Subsection (c), or prior administrative decisions;
 - (2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
 - (3) that a technical error in a finding of fact should be changed.

The agency shall state in writing the specific reason and legal basis for a change made under this subsection.

- (e-1) Notwithstanding Subsection (e), a state agency may not vacate or modify an order of an administrative law judge that awards attorney's fees and costs under Section [2001.903](#).
- (f) A state agency by rule may provide that, in a contested case before the agency that concerns licensing in relation to an occupational license and that is not disposed of by stipulation, agreed settlement, or consent order, the administrative law judge shall render the final decision in the

contested case. If a state agency adopts such a rule, the following provisions apply to contested cases covered by the rule:

- (1) the administrative law judge shall render the decision that may become final under Section [2001.144](#) not later than the 60th day after the latter of the date on which the hearing is finally closed or the date by which the judge has ordered all briefs, reply briefs, and other posthearing documents to be filed, and the 60-day period may be extended only with the consent of all parties, including the occupational licensing agency;
- (2) the administrative law judge shall include in the findings of fact and conclusions of law a determination whether the license at issue is primarily a license to engage in an occupation;
- (3) the State Office of Administrative Hearings is the state agency with which a motion for rehearing or a reply to a motion for rehearing is filed under Section [2001.146](#) and is the state agency that acts on the motion or extends a time period under Section [2001.146](#);
- (4) the State Office of Administrative Hearings is the state agency responsible for sending a copy of the decision that may become final under Section [2001.144](#) or an order ruling on a motion for rehearing to the parties, including the occupational licensing agency, in accordance with Section [2001.142](#); and
- (5) the occupational licensing agency and any other party to the contested case is entitled to obtain judicial review of the final decision in accordance with this chapter.