



ADMINISTRATIVE RULES OF MONTANA



2.43.1501 REVIEW OF ADMINISTRATIVE DECISION

- (1) An "administrative decision" means a decision issued by MPERA that determines an individual's or an entity's legal rights, duties, or privileges pursuant to the provisions of Title 19, MCA.
- (2) Parties who disagree with the administrative decision may appeal the decision to the board within 90 days of the date of written notification.
- (3) Administrative decisions that are appealed to the board will be initially decided by the board on the basis of material properly submitted by MPERA and the appealing party, and such other information as the board deems appropriate. The board may, on its own motion, postpone its initial decision until the next regularly scheduled board meeting.
- (4) The board will notify the appealing party of its initial decision in writing. If the decision is adverse to the appealing party, the board will include a general statement of the reasons for its decision, which need not be exhaustive. The appealing party will be given two options, either of which must be exercised within 30 days of the date of written notification. The appealing party may submit a request in writing for:
 - (a) reconsideration by the board; or
 - (b) a contested case proceeding.
- (5) A reconsideration by the board will be based on facts and matters submitted by the appealing party and MPERA to the board, the testimony of the appealing party before the board, and the presentation of the appealing party and MPERA, or their legal counsel, to the board.
 - (a) Unless otherwise ordered by the board pursuant to (5)(c), facts and matters may be submitted any time after the board's initial decision is issued until 21 days prior to the third regularly scheduled board meeting following issuance of the initial decision.
 - (b) Any response to submitted facts and matters must be provided to the opposing party no later than seven days prior to the regularly scheduled board meeting at which the matter will be considered.
 - (c) The board may, prior to issuing its decision on reconsideration and on its own motion, require the appealing party, MPERA, or both to submit additional facts and matters relevant to the issue before the board. The board may also, on its own motion, postpone its decision on reconsideration. However, in no case may the board prolong issuance of its decision on reconsideration for more than six months following issuance of its initial decision.
 - (d) The board will notify the party in writing of its decision on reconsideration. That decision will become final and will not be subject to a contested case proceeding or judicial review unless

the party files a written request for a contested case proceeding within 30 days of the written notice of decision on reconsideration.

- (6) MPERA's administrative decision, the board's initial decision, and its decision on reconsideration will be mailed to the affected parties. The time period for requesting further review of any of the decisions will commence three days following the date of the letter notifying the parties of the decision.
- (7) If a party fails to exercise an available option within the time allowed by the board, the board's decision becomes final and is not subject to contested case proceedings or judicial review. Thereafter, a party may only appear before the board on the same matter based on new and different facts that are not repetitive, and for good cause shown.
- (8) Unless otherwise provided, time periods may be enlarged only in writing by the board or its authorized representative and only on requests made prior to the expiration of the time period.

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-403, MCA

History: NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1995 MAR p. 205, Eff. 2/10/95; AMD, 1997 MAR p. 1660, Eff. 9/23/97; AMD, 2003 MAR p. 972, Eff. 5/9/03; AMD & TRANS, from ARM 2.43.203, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13.