



ADMINISTRATIVE RULES OF MONTANA

1.3.218 CONTESTED CASES, HEARING EXAMINERS

- (1) An agency may appoint a hearing examiner to conduct a hearing in a contested case.
- (2) A hearing examiner appointed under this part may:
 - (a) administer oaths or affirmations;
 - (b) issue subpoenas;
 - (c) provide for the taking of testimony and depositions;
 - (d) set the time and place for hearing;
 - (e) set motion and briefing schedules; and
 - (f) by mutual consent of the parties, hold conferences to consider narrowing or simplifying the issues.
- (3) If a defending party notifies the agency that the party will appear at the hearing to contest the intended action, the agency must advise all parties of the appointment of either an agency member or a hearing examiner to manage the case, as illustrated by sample form 218a.
- (4) Pursuant to 2-4-611(4), MCA, an agency may disqualify a hearing examiner if the agency determines personal bias, lack of independence, disqualification by law, or other disqualification criteria exist. A motion to disqualify filed by a party must be supported by affidavit.

Sample Form 218a: Order Appointing a Hearing Examiner

BEFORE THE [agency] OF THE STATE OF MONTANA

In the matter of [same as
original notice]) APPOINTMENT OF HEARING
) EXAMINER
)

TO: All Interested Persons

On [date], a notice of hearing for [for example: revocation of insurance producer's license] was served on [name]. On [date], the agency received written notice that [name] will appear at the hearing to contest the intended agency action. [Name] is appointed the hearing examiner in the above action. All correspondence and motions in the above matter should be directed to the hearing examiner at [address].

The [agency] will make reasonable accommodations for persons with disabilities who wish to participate in this process and need an alternative accessible format of this notice. If you require an accommodation, contact [agency] no later than 5:00 p.m. on [date - no requirement specified in MAPA], to advise us of the nature of the accommodation needed. Please contact [name, address, telephone, TTD number, fax, e-mail].

Dated this _____ day of _____, 20____.

(must be signed by:)

By [authorized person's signature]

Authorizing statute(s): 2-4-202, MCA

Implementing statute(s): 2-4-202, MCA

History: Eff. 12/31/72; AMD, 1977 MAR p. 1192, Eff. 12/24/77; AMD, 1979 MAR p. 1231, Eff. 10/12/79; AMD, 1981 MAR p. 1196, Eff. 10/16/81; AMD, 1992 MAR p. 1242, Eff. 6/12/92; AMD, 2008 MAR p. 1700, Eff. 8/15/08.