

657—35.6(17A,272C) Presiding officer for nondisciplinary hearings.

35.6(1) *Request for administrative law judge.* Any party may request that an administrative law judge employed by the department of inspections and appeals be assigned to render a proposed decision in a nondisciplinary hearing. The written request shall be filed with the executive secretary/director within 20 days after service of a notice of hearing identifying or describing the presiding officer as the members of the board.

35.6(2) *Grounds for denial.* The executive secretary/director may deny the request only upon a finding that one or more of the following apply:

a. Neither the board nor any member of the board, under whose authority the contested case is to take place, is a named party to the proceeding or a real party in interest to that proceeding.

b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

c. The contested case involves the discipline of a licensee or registrant and therefore must be decided by the board as required by Iowa Code section 272C.6.

d. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

e. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

f. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

g. The request was not timely filed.

h. The request is not consistent with a specified statute.

35.6(3) *Written ruling.* The executive secretary/director shall issue a written ruling specifying the grounds for the decision within 20 days after a request for an administrative law judge is filed.

35.6(4) *Appeals to board.* Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the board. A party shall seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

35.6(5) *Review of proposed decision.* Unless otherwise provided by law, members of the board, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.