

Rule 15-1106. Conduct of the hearing; evidence and civil procedure; right to counsel; right to record hearing; effect of failure to appear; postponements.

(a) ~~Setting of hearing.~~ The panel chair or the sole arbitrator, shall set a time and place for the hearing and shall cause written notice to be served personally or by mail on all parties to the arbitration, and on the remaining panel members, not less than 30 days before the hearing. A party's participation at a scheduled hearing shall constitute a waiver on his part of any deficiency with respect to the filing of the notice of the hearing.

(b) ~~Notice of hearing and rights.~~ In the notice of the hearing, the panel chair or sole arbitrator shall inform the parties of their right to present witnesses and documentary evidence in support of their respective positions, and to be represented by an attorney.

(c) ~~Court reporter and transcripts.~~ Any party may have the hearing reported by a certified court reporter at his expense, by written request presented to the panel chair or sole arbitrator at least three days prior to the date of the hearing. The chair or arbitrator shall confirm with the court reporter that the requesting party, and not the Bar, is responsible for all costs of the court reporter. In such event, any other party to the arbitration shall be entitled to obtain, at his own expense, a copy of the reporter's transcript of the testimony by arrangements made directly with the reporter. When no party to the arbitration requests that the hearing be reported, and the panel chair or sole arbitrator deems it necessary to have the hearing reported, the panel chair or sole arbitrator may employ a certified court reporter for such purpose if authorized to do so by the executive director in writing.

(d) ~~Testimony under oath.~~ Upon request by any party to the arbitration or any member of the panel, the testimony of witnesses shall be given under oath. When so requested, any member of the panel or the court reporter may administer an oath to the witness.

(e) ~~Evidence and civil procedure.~~ The panel shall be the judge of the relevancy and materiality of evidence offered and shall rule on questions of procedure. The panel shall exercise all powers related to the conduct of the hearing. Conformity to legal rules of evidence or civil procedure shall not be required.

(f) ~~Panel member failure to appear.~~ If, at the time set for any hearing, one of the members of the panel is not present, the panel chair, or in the event of his unavailability, the chair or his designee, in his sole discretion, shall decide either to postpone the hearing, or with the consent of the parties, to proceed with the hearing with the remaining two members of the panel as the arbitrators.

~~(g) Party failure to appear. If any party to an arbitration who has been duly notified fails to appear at a scheduled hearing, the panel may proceed with the hearing and determine the controversy upon the evidence produced.~~

~~(h) Adjournment and postponement. The panel chair or the sole arbitrator may adjourn the hearing from time to time as necessary. Upon the request of a party and for good cause, or upon the determination of the panel chair or sole arbitrator, the panel chair or sole arbitrator may postpone the hearing from time to time.~~

~~(i) Failure of a licensed paralegal practitioner respondent to respond. Failure of a licensed paralegal practitioner respondent to file the fee arbitration response form shall not delay the scheduling of a hearing. In any such case, the panel may, in its discretion, refuse to consider evidence offered by the licensed paralegal practitioner which would reasonably be expected to have been disclosed in the response.~~

~~(j) Telephonic hearings. In its discretion, a panel may permit a party to appear or present witness testimony at the hearing by telephonic conference call. The cost of the telephone call shall be paid by the party.~~

~~(k) Reopening of hearing. With good cause shown, the panel may reopen the hearing at any time before a decision is issued.~~

~~(l) Burden of proof and standard. The burden of proof shall be on the licensed paralegal practitioner to prove the reasonableness of the fee by a preponderance of the evidence.~~

Effective November 1, 2018