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2B-1.004 Hearings Before the Commission.

~~(1) If a respondent who is entitled to a hearing involving disputed issues of material fact does not elect to proceed before the Division of Administrative Hearings, and the Commission does not refer the case to Division of Administrative Hearings, the executive director shall schedule the formal hearing before the Commission.~~

~~(2) At the time the hearing is scheduled, the Chairman shall issue a pre-hearing order form, Pre-hearing Order, FEC-002, effective 4-24-05, which is hereby adopted and incorporated by reference. The order shall require the parties to file a joint pre-hearing statement at least five working days before the scheduled hearing date. The pre-hearing order shall provide the date of the hearing and the date the pre-hearing statement must be filed. The pre-hearing order shall require the parties to confer and file a joint pre-hearing statement that provides the following information:~~

~~(a) The name, address and telephone number of each person intended to be called as a witness by either party.~~

~~(b) A stipulation by the parties setting forth:~~

~~1. The facts that are not in dispute;~~

~~2. The facts that are in dispute;~~

~~3. A list of all exhibits that the parties agree should be admitted into evidence;~~

~~4. A list of exhibits to which either party objects, the nature of the objection and a response to the objection; and~~

~~5. An estimate of the time that each party believes shall be necessary to present the formal hearing to the~~

~~Commission.~~

~~(c) Should the parties fail to reach a joint pre-hearing statement, each party shall be required to file a unilateral pre-hearing statement that also included the reasons that a joint pre-hearing statement was not filed.~~

~~(3) When necessary to expedite the processing of agency matters on behalf of the public, the Chairman shall designate one or more Commissioners to hear any motion filed by a party that is not dispositive of the case pending before the Commission.~~

~~(4) Upon the request of any party, the Commission clerk shall schedule a motion hearing on any pending motion, so long as the motion is not dispositive of the matter pending before the Commission, a designated Commissioner may hear the motion, and adequate notice and opportunity to appear in person or by telephone can be provided to the parties. The Uniform Rules of Procedure, Chapter 28, F.A.C., shall be the procedural rules of the Florida Elections Commission, except as otherwise specifically provided by statute or this rule.~~

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~~(5)~~ (2) When necessary to secure the just, speedy, and inexpensive determination of a case, the Chairman shall ~~direct that~~ may appoint one or more Commissioners hear any to conduct a hearing involving disputed issues of material fact, ~~any a~~ hearing not involving disputed issues of material fact, or a hearing involving any a dispositive motion hearing.

(a) ~~Designation of the specific Commissioner or Commissioners to hold a~~ preside over any such hearing involving disputed issues of material fact, ~~hearing not involving disputed issues of material fact, or dispositive motion shall be made only by a majority of the Commissioners voting.~~

(b) The Commission clerk shall notify the parties of the designation of a Commissioner or Commissioners to preside over the hearing and shall notice the hearing.

~~(c)~~ (b) The designated Commissioner or Commissioners shall hear the evidence and argument presented by the parties during a the hearing involving disputed issues of material fact, ~~a hearing not involving disputed issues of material fact, or a dispositive motion hearing.~~

(d) ~~The designated Commissioner or Commissioners hearing the case shall~~ and shall file a report with the Commission clerk within 30 days of receiving any post hearing submissions from the parties. The report shall contain a recommended order that includes findings of fact, conclusions of law, a recommended disposition or penalty, if applicable, and any exceptions and responses filed by the parties. The report shall be served upon the parties.

~~(c)~~ (c) The Commission shall review the report, deliberate and reach a decision in the case at its next regularly scheduled meeting. The designated Commissioner or Commissioners hearing the case shall not participate in the deliberation or vote of the Commission.

(6) (d) ~~Upon the Commission's determination of the outcome of a case after a hearing involving disputed issues of material fact, or after reviewing the report of the designated Commissioner or Commissioners, the~~ The Commission's counsel shall prepare a ~~proposed~~ final order reflecting the Commission's decision. The final order shall be signed by the chair or vice chair on behalf of the Commission and the Commission clerk shall enter the order.

(7) (3) A clerical mistake in a final order arising from oversight or omission may be corrected by the Commission at any time on its own initiative or on the motion of any party.