

11.3 ROLE OF THE ADMINISTRATIVE LAW JUDGE

Since 1976, Minnesota has had an independent Office of Administrative Hearings that employs Administrative Law Judges to conduct contested case hearings for other state agencies. ALJs are experienced attorneys who are hired under civil service requirements. The ALJ is responsible for maintaining an orderly proceeding, which is a component of a fair hearing.¹ A number of cases have listed the essential elements of a fair administrative hearing, usually including: the right to be heard; the right to the production of witnesses and documents; the taking of evidence; the examination and cross-examination of witnesses; the right to present argument; and a decision on the merits.²

The ALJ is directed by the APA to conduct all hearings in a fair and impartial manner.³ An agency decision may be vacated and a rehearing required if the ALJ expresses an opinion on the merits during the hearing, comments unfavorably on the evidence of a party, intimidates or discredits witnesses, makes rash statements showing bias, or otherwise exhibits a partisan nature.⁴ An administrative order based on a hearing that was so unfair as to deprive a party of the opportunity to fairly present his or her evidence cannot stand.⁵ Because the final agency decision must be based on the hearing record, an ALJ has an affirmative responsibility to assure that a full and accurate record is developed at the hearing, especially where a party is unrepresented by counsel. Accordingly, the ALJ must often protect the rights of an unrepresented party by assuring that the party's case is developed, while at the same time not engaging in advocacy activity on behalf of the unrepresented party.⁶ This does not mean, however, that the ALJ is required to assume all the duties of counsel for an unrepresented party, such as the exclusion of objectionable evidence.⁷

¹ Goranson v. Dep't of Registration & Educ., 92 Ill. App. 3d 496, 501, 415 N.E.2d 1249, 1253 (1980).

² State ex rel. Spurck v. Civil Serv. Bd., 226 Minn. 240, 247, 32 N.W.2d 574, 579 (1948).

³ MINN. STAT. § 14.50(3) (2014); Chanhassen Chiropractic Ctr. v. City of Chanhassen, 663 N.W.2d 559, 562-63 (Minn. Ct. App. 2003) (whether hearing officer is impartial is a fact-specific inquiry).

⁴ NLRB v. Phelps, 136 F.2d 562, 567 (5th Cir. 1943); Harris v. Bd. of Registration in Chiropody, 343 Mass. 536, 179 N.E.2d 910, 912 (1962) (podiatry); Jones v. State Dep't of Pub. Health & Welfare, 354 S.W.2d 37, 40-41 (Mo. Ct. App. 1962); see Urban Council on Mobility v. Minn. Dept. of Natural Res., 289 N.W.2d 729, 736 (Minn. 1980) (finding due process not violated so long as decisionmaker remains unbiased); Buchwald v. Univ. of Minn., 573 N.W.2d 723, 728 (Minn. Ct. App. 1998) (finding a party in an administrative proceeding does not demonstrate bias on the part of the decisionmaker by showing only that the decisionmaker recused himself from a disciplinary proceeding against the party).

⁵ State v. Duluth, M. & I. R. Ry., 246 Minn. 383, 399, 75 N.W.2d 398, 410 (1956). *But cf.* Staeheli v. City of St. Paul, 732 N.W.2d 298305-06 (Minn. Ct. App. 2007) (finding hearing officer's time limit for case presentation and rebuttal appeared arbitrary, but record did not indicate that licensee was prejudiced by the limit).

⁶ Jones v. R.R. Ret. Bd., 614 F.2d 151, 154 (8th Cir. 1980); Yswsf v. Teleplan Wireless Servs., Inc., 726 N.W.2d 525, 530 (Minn. Ct. App. 2007); Kropiwka v. Dep't of Indus., Labor & Human Relations, 87 Wis. 2d 709, 721, 275 N.W.2d 881, 887 (1979).

⁷ Griswold v. Dep't of Alcoholic Beverage Control, 141 Cal. App. 2d 807, 810, 297 P.2d 762, 764 (1956).