

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

interrogatories must be answered or documents must be produced.

- C. No scheduled hearing shall be cancelled or continued for failure of a party to timely issue interrogatories or a request for production of documents to another interested party.
- D. Written interrogatories issued pursuant to the provisions of this Section may only be used at the time of hearing for impeachment of a witness unless the answering party is deceased at the time of the scheduled hearing in which event the interrogatory answers may be admitted into evidence.

Historical Note

Adopted effective March 20, 1975 (Supp. 75-1). R20-5-821 recodified from R4-13-821 (Supp. 95-1). Amended by final rulemaking at 30 A.A.R. 2122 (June 28, 2024), with an immediate effective date of June 6, 2024 (Supp. 24-2).

R20-5-822. Refusal to Answer; Refusal to Attend

- A. If an interested party or witness refuses to answer any question propounded during deposition pursuant to R20-5-819 and R20-5-820, the deposition shall be completed in other matters, as the proponent of the question may prefer. Thereafter on reasonable notice to all parties and persons affected thereby the proponent of the question may apply to the administrative law judge for an order compelling an answer. Upon the refusal of an interested party to answer any interrogatory submitted under R20-5-821, or produce a document requested under R20-5-821, the proponent of the interrogatory or requestor of the document may on like notice make like application for such an order from the administrative law judge. If the motion is granted and if the administrative law judge finds that the refusal was without substantial justification, the administrative law judge shall require the refusing party, witness, or representative advising the refusal or either of them to pay to the party propounding the interrogatory or requesting the document the amount of the reasonable attorney's fees incurred in obtaining the order and the reasonable expenses which will be incurred to obtain the requested answers or documents. If the motion is denied and if the administrative law judge finds that the motion was made without substantial justification, the administrative law judge shall require the party filing the motion or the representative advising the party to file the motion, or both, to pay to the refusing party or witness the amount of the reasonable attorney's fees incurred in opposing the motion.
- B. If an interested party or a representative of an interested party willfully fails to appear for deposition after being served with the proper notice, or fails to serve answers to interrogatories or produce requested documents after proper service of such interrogatories or request for production of documents, the administrative law judge, on motion and notice, may strike out all or any part of any pleading of that party, dismiss the action or proceeding or any part thereof, or preclude the introduction of evidence.

Historical Note

Adopted effective March 20, 1975 (Supp. 75-1). R20-5-822 recodified from R4-13-822 (Supp. 95-1). Amended by final rulemaking at 30 A.A.R. 2122 (June 28, 2024), with an immediate effective date of June 6, 2024 (Supp. 24-2).

R20-5-823. Burden of Proof

- A. In all proceedings other than those stated in subsection (B) commenced by the filing of a request for hearing, the burden of proof shall rest with the Arizona Division of Occupational Safety and Health.

- B. In proceedings commenced by a request for hearing requesting modification of the abatement period, the burden of establishing the necessity for such modification shall rest with the petitioner.

Historical Note

Adopted effective March 20, 1975 (Supp. 75-1). R20-5-823 recodified from R4-13-823 (Supp. 95-1). Amended by final rulemaking at 30 A.A.R. 2122 (June 28, 2024), with an immediate effective date of June 6, 2024 (Supp. 24-2).

R20-5-824. Intermediary Rulings or Orders by the Administrative Law Judge

No intermediary rulings or orders by the administrative law judge may be appealed to the Review Board, but shall become a part of the record.

Historical Note

Adopted effective March 20, 1975 (Supp. 75-1). R20-5-824 recodified from R4-13-824 (Supp. 95-1). Amended by final rulemaking at 30 A.A.R. 2122 (June 28, 2024), with an immediate effective date of June 6, 2024 (Supp. 24-2).

R20-5-825. Legal Memoranda

Legal memoranda may be filed if authorized by the applicable rules of procedure or the administrative law judge. When authorized, the administrative law judge shall establish reasonable briefing deadlines for all interested parties.

Historical Note

Adopted effective March 20, 1975 (Supp. 75-1). R20-5-825 recodified from R4-13-825 (Supp. 95-1). Amended by final rulemaking at 30 A.A.R. 2122 (June 28, 2024), with an immediate effective date of June 6, 2024 (Supp. 24-2).

R20-5-826. Administrative Law Judge Decisions

- A. The decision of the administrative law judge shall be signed, include findings and conclusions of fact and law, and include an order.
- B. OAH shall retain jurisdiction to require compliance with the order, or to determine a breach of an approved settlement agreement.
- C. A request to determine breach of a settlement agreement shall be filed with the administrative law judge and served upon all interested parties.
- D. A request for review by the Review Board shall be filed with the administrative law judge and served upon all interested parties and the Commission.

Historical Note

Amended effective August 27, 1975 (Supp. 75-1). R20-5-826 recodified from R4-13-826 (Supp. 95-1). Amended by final rulemaking at 30 A.A.R. 2122 (June 28, 2024), with an immediate effective date of June 6, 2024 (Supp. 24-2).

R20-5-827. Settlement

- A. Settlement is encouraged at any stage of the proceedings where such settlement is consistent with the provisions and objectives of the Act.
- B. A settlement agreement submitted by interested parties shall be accompanied by a proposed order which, if appropriate, shall be approved and signed by the administrative law judge.
- C. Where parties enter into a settlement agreement, the settlement agreement shall be served upon represented and unrepresented affected employees in the manner set forth in R20-5-806.