

Sec. 31-272-12. Prehearing conference; resolution and reconsideration prior to an adjudicative hearing

(a) At any time after the issuance of an agency complaint and determination of probable cause of misconduct, and before the commencement of a hearing, the Board may order, or a complainant or an authorized agent may request, an informal prehearing conference. The granting or denial of a request for a prehearing conference is within the discretion of the Board or hearing officer designated by the Board.

(b) A prehearing conference may be held for any of the following purposes:

- (1) to discuss the informal disposition of the complaint;
- (2) to simplify or schedule matters to be heard at the formal hearing;
- (3) to narrow the scope of the issues in dispute;
- (4) to obtain stipulations as to matters of fact;
- (5) to stipulate as to the qualifications of expert witnesses to testify at the hearing.

(c) The prehearing conference need not be recorded, but a written record will be made as to any stipulation agreed upon.

(d) From the issuance of an agency complaint finding probable cause pursuant to subsection (b) of section 31-272-11 of these regulations until the commencement of a hearing, the Board may in its discretion effect resolution of any complaint by way of a settlement agreement. Any settlement agreement shall contain:

(1) the signatures of the authorized agent or its representative and the Chairperson of the Board;

(2) an express waiver of the right to challenge or contest the validity of the agreement or any order contained therein;

(3) a statement that the agreement represents a final disposition of the complaint which shall have the same force and effect as an order entered after a formal hearing; and

(4) any other provisions appropriate to the settlement.

(e) Once a hearing has commenced, an informal disposition may be made. A settlement agreement may be negotiated by an authorized agent and the Appeals Division. The acceptance of an agreement is within the discretion of the Board. The agreement shall contain the information required in subsection 31-272-12 (d). A settlement agreement adopted pursuant to this subsection or to subsection (d) shall be deemed to have the same force and effect as an order to comply with applicable law issued under section 31-272-9 (b) (2) of these regulations.

(Effective July 1, 1992)