

660:2-9-6. Conduct of individual proceeding

(a) Order of proceeding. The hearing shall proceed as follows:

- (1) The Administrator, or the Hearing Officer, shall call the hearing to order;
- (2) the Administrator, or the Hearing Officer, shall briefly explain the purpose and nature of the hearing;
- (3) the Administrator, or the Hearing Officer, may allow the parties to present preliminary matters;
- (4) the Administrator, or the Hearing Officer, may allow the parties to make opening statements;
- (5) the Administrator, or the Hearing Officer, shall state the order of presentation of evidence;
- (6) witnesses shall be sworn or put under affirmation to tell the truth; and
- (7) the Administrator, or the Hearing Officer, may allow the parties to present summations and closing argument.

(b) Rules of evidence. The rules of evidence need not be strictly followed or observed by the Administrator, or the Hearing Officer, during the hearing in order to obtain a full and fair disclosure of facts relevant to the matters at issue. However, the admissibility of evidence shall be governed by the provisions of Section 310 of the Administrative Procedures Act.

(c) Official notice. Notice may be taken by the Administrator, or the Hearing Officer, of judicially cognizable facts. In addition, notice may be taken of generally recognized practices, procedures and facts relating to the securities industry. Parties shall be notified either before or during the hearing of the material noticed and they shall be afforded an opportunity to contest the material so noticed. The Administrator, or the Hearing Officer, shall utilize his experience, technical competence and specialized knowledge in evaluating the evidence presented.

(d) Examination of witnesses.

(1) Witnesses shall testify under oath or affirmation. If the Administrator, or the Hearing Officer, determines that a witness is hostile or unresponsive, the Administrator, or the Hearing Officer, may authorize the party calling the witness to proceed as if the witness were under cross-examination.

(2) A party may conduct direct examination or cross-examination of a witness without strict adherence to formal rules of evidence, particularly, the rules on hearsay, in order to obtain a full and fair disclosure of facts relevant to the matters at issue.

(3) Upon request by any party, the Administrator, or the Hearing Officer, may exclude witnesses other than parties from the hearing room when those witnesses are not testifying. A party that is not a natural person may designate an individual as its representative to remain in the hearing room, even though the individual may also be a witness. An expert witness who is to render an opinion based on the testimony given at the hearing may remain in the hearing room during all testimony. The Administrator, or the Hearing Officer, may order the witnesses, parties, their counsel, and any person under their direction not to disclose to any sequestered witness the substance of the testimony, exhibits, or other evidence introduced during the absence of the witness.

(4) No witness shall testify by telephone or other electronic means unless by agreement of the parties [or by order of the Administrator or the Hearing Officer.](#)