

77-548. Director of taxation; adjudicative proceedings; ex parte communications; file and docket, contents; technical staff, not party to proceedings. (a) This section applies to adjudicative proceedings before the director of taxation. Informal conferences held pursuant to K.S.A. 79-3226, and amendments thereto, shall not be deemed to be adjudicative proceedings for the purposes of this act.

(b) (1) After the director has determined and announced that a hearing should be held, and prior to the issuance of a final order, no parties to the proceeding, or their counsel, shall discuss the merits of the matter or proceeding with the presiding officer unless reasonable notice is given to all parties who have appeared to enable the parties to be present at the conference.

(2) After the director has determined and announced that a hearing should be held, prior to the issuance of a final order, copies of any written communications from any party regarding the proceeding that are directed to the presiding officer shall be mailed to all parties of record and proof of service shall be furnished to the director. Communications requested by the director's staff from any party and any written communication received by the director's staff from any party shall be made a part of the file and the docket and shall be made available to all persons who desire to use them, provided that the director's requests for information from a party shall be mailed to all parties of record.

(3) The person or persons to whom any *ex parte* communication has been made shall promptly and fully inform the director of the substance of the communication, and the circumstances thereof, to enable the director of any division within the department to take appropriate action.

(c) For purposes of this section, no member of the director's technical staff shall be considered a party to any proceeding before the director, regardless of participation in staff investigations with respect to the proceeding or of participation in the proceeding as a witness. Since the purpose of the staff is to aid the director in the proper discharge of the director's duties, the presiding officer shall be free at all times to confer with any staff member with respect to any proceeding. However, no facts that are outside the record, and that reasonably could be expected to influence the decision in any matter pending before the director, shall be furnished to any presiding officer unless all parties to the proceeding are likewise informed and afforded a reasonable opportunity to respond. Subsection (b) shall apply to staff counsel who have participated in the proceeding in regard to any adjudicatory proceeding before the director.

(d) All letters and written communications that are received by the presiding officer from members of the general public, and that are in the nature of *ex parte* communications, shall be made a part of the file in the docket and shall be made available to all persons who desire to see them. The deposit of such written communications and letters in the file shall not make them a part of the official record of the case.

History: L. 1988, ch. 356, § 357; L. 1997, ch. 126, § 6; July 1.