

ARTICLE 13-01.1 PRACTICE AND PROCEDURE

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CHAPTER 13-01.1-01 GENERAL PROVISIONS

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13-01.1-01-01. Applicability.

This article shall apply to all practice and procedure before the state banking board and commissioner unless rendered inconsistent by a specific statute or rule, in which instance the more specific statute or rule shall apply. The board will follow title 98 for all practices and procedures not contained under this article.

History: Effective January 1, 1980; amended effective November 1, 1994.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-05

13-01.1-01-02. Address - Sessions.

The principal office of the board is located at 2000 Schafer street, suite g, Bismarck, North Dakota.

History: Effective January 1, 1980; amended effective November 1, 1994; May 1, 1996; November 1, 1997.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-05

13-01.1-01-03. Communications.

All correspondence and filings forwarded to the board shall be addressed to:

State Banking Board

History: Effective January 1, 1980; amended effective August 1, 1991; May 1, 1996; November 1, 1997.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-05

13-01.1-01-04. Case title.

Each matter coming formally before the board will be known as a case and shall be given a title descriptive of the subject matter. Such title shall be used on all papers in the case and, as far as possible, any communication to the board in any particular case shall bear or reference the title of the case.

History: Effective January 1, 1980.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-05

13-01.1-01-05. Personal and representative appearances.

Repealed effective November 1, 1994.

13-01.1-01-06. Rules of conduct.

All persons appearing before the board or a hearing officer must conform to the standards of ethical conduct required of practitioners before the courts of the state of North Dakota. Any member of the bar of another state may be permitted by the commissioner to appear in and conduct a cause or matter while retaining the member's residence in another state.

History: Effective January 1, 1980; amended effective November 1, 1994.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-05

13-01.1-01-07. Parties.

1. **Classification.** Parties to proceedings before the board are designated as applicants, complainants, petitioners, intervenors, protestants, or respondents, according to the nature of the proceeding and the relationship of the parties thereto.
2. **Applicant.** Persons filing formal written requests with the board for some right, privilege, or authorization which the board may give under statutory or other authority granted to it are designated as applicants.
3. **Complainant.** Persons who complain to the board of acts done or omitted to be done in violation of some law administered by the board, or in violation of some rule, regulation, or order issued by the board, are designated as complainants.
4. **Petitioner.** Persons seeking relief, not otherwise designated herein, are designated as petitioners.
5. **Intervenor.** Persons, other than the original parties to a pending proceeding, who voluntarily become parties thereto with leave of the commissioner are designated as intervenors. Admission as an intervenor shall not be construed as recognition by the board that the intervenor might be aggrieved by any order of the board in the proceeding.

6. **Protestant.** Persons opposing on grounds of private or public interest the approval of an application, petition, motion, or other matter under consideration by the board are designated as protestants.
7. **Respondent.** Persons subject to any statute or other delegated authority administered by the board to whom an order or notice is issued by the board instituting a proceeding or investigation on its own initiative and persons subject to any statute or other delegated authority administered by the board or any rule, order, or regulation issued or promulgated thereunder against whom any complaint is filed are designated as respondents.

History: Effective January 1, 1980.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-05

13-01.1-01-08. Investigation on board's own motion.

The board may at any time, upon its own motion or upon the complaint of any person, institute investigation proceedings and order hearing in any action or thing done or omitted to be done by any party under the board's jurisdiction which the board may believe is in violation of the law or of any order or rule of the board. It may, through its staff or otherwise, secure and present such evidence as it may consider necessary or desirable in any proceeding in addition to the evidence presented by the parties.

History: Effective January 1, 1980; amended effective November 1, 1994.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-08

13-01.1-01-09. Definitions.

As used in this article except as otherwise required by the context:

1. "Board" and "board member" means the state banking board, and a member thereof, respectively.
2. "Board's staff" means and includes the board's experts, employees and attorneys, and the staff of the department of financial institutions.
3. "Commissioner" means the commissioner of financial institutions.
4. "Hearing officer" means and includes any one or more of the members of the board duly designated, or one or more trial examiners appointed according to law and duly designated to preside at hearings or conferences.
5. "Participants" means and includes any party or person admitted by the board or commissioner to participate in a proceeding, including the board's staff.

History: Effective January 1, 1980; amended effective November 1, 1994; June 1, 2002.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-01

13-01.1-01-10. Liberal construction.

This article shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented.

History: Effective January 1, 1980.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-05

13-01.1-01-11. Suspension of rules.

The board reserves the right to suspend, either upon its own motion or upon the motion of any party, the operation of or necessity for compliance with any rule of procedure or part thereof, upon due notice to all parties, whenever the public interest or the interest of any party to a proceeding will not be substantially prejudiced thereby. The power to suspend these rules may be exercised by the commissioner. Every such exercise of power by the commissioner is subject to review by the board.

History: Effective January 1, 1980.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-05

13-01.1-01-12. Facsimile transmission.

Any paper may be filed with the department or board by facsimile transmission. Filing must be deemed complete at the time that the facsimile transmission is received and the filed facsimile has the same force and effect as the original. The facsimile must be legible or it will not be deemed as being received. Within five days after the department or board has received the transmission, the party filing the document shall forward the original signed document and the applicable filing fee, if any.

History: Effective October 1, 1991.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-05

13-01.1-01-13. Ex parte communications.

The board may sanction any party or the party's counsel who makes an ex parte communication as prohibited by North Dakota Century Code section 28-32-37 by directing the party or counsel to pay such additional administrative costs that may be attributable to the ex parte communication or may rule adversely on the issue which is the subject of the prohibited communications, or both.

History: Effective November 1, 1994.

General Authority: NDCC 6-01-04, 28-32-02

Law Implemented: NDCC 6-01-01, 6-01-04, 28-32-37