

by a party to expedite the administrative proceeding may, at the discretion of the Judge, be made orally or in writing with concurrent actual notice to all parties. Upon granting a motion to expedite the scheduling of an administrative proceeding, the Judge may expedite pleading schedules, prehearing conferences and the hearing, as appropriate. If a motion for an expedited administrative proceeding is granted, a hearing on the merits may not be scheduled with less than 5 business days notice, unless all parties consent to an earlier hearing.

§ 904.210 Summary decision.

The Judge may render a summary decision disposing of all or part of the administrative proceeding if:

- (a) Jointly requested by every party to the administrative proceeding; and
- (b) There is no genuine issue as to any material fact and a party is entitled to summary decision as a matter of law.

§ 904.211 Failure to appear.

(a) If, after proper service of notice, any party appears at the hearing and an opposing party fails to appear, the Judge is authorized to:

- (1) Dismiss the case with prejudice, where the Agency is a non-appearing party; or
- (2) Where the respondents have failed to appear, find the facts as alleged in the NOVA, NOPS and/or NIDP and enter a default judgment against the respondents.
- (b) Following an order of default judgment, a non-appearing party may file a petition for reconsideration, in accordance with § 904.272. Only petitions citing reasons for non-appearance, as opposed to arguing the merits of the case, will be considered.
- (c) The Judge will place in the record all the facts concerning the issuance and service of the notice of time and place of hearing.
- (d) The Judge may deem a failure of a party to appear after proper notice a waiver of any right to a hearing and consent to the making of a decision on the record.
- (e) Failure to appear at a hearing shall not be deemed to be a waiver of

the right to be served with a copy of the Judge's decision.

§ 904.212 Failure to prosecute or defend.

(a) Whenever the record discloses the failure of any party to file documents, respond to orders or notices from the Judge, or otherwise indicates an intention on the part of any party not to participate further in the administrative proceeding, the Judge may issue:

- (1) An order requiring any party to show why the matter that is the subject of the failure to respond should not be disposed of adversely to that party's interest;
 - (2) An order requiring any party to certify intent to appear at any scheduled hearing; or
 - (3) Any order, except dismissal, as is necessary for the just and expeditious resolution of the case.
- (b) [Reserved]

§ 904.213 Settlements.

If settlement is reached before the Judge has certified the record, the Judge shall remove the case from the docket upon notification by the Agency.

§ 904.214 Stipulations.

The parties may, by stipulation, agree upon any matters involved in the administrative proceeding and include such stipulations in the record with the consent of the Judge. Written stipulations must be signed and served upon all parties.

§ 904.215 Consolidation.

The Chief Administrative Law Judge may order that two or more administrative proceedings that involve substantially the same parties or the same issues be consolidated and/or heard together, either upon request of a party or *sua sponte*.

§ 904.216 Prehearing conferences.

(a) Prior to any hearing or at any other time deemed appropriate, the Judge may, upon his or her own initiative, or upon the application of any party, direct the parties to appear for a conference or arrange a telephone conference. The Judge shall provide at least 24 hours notice of the conference