

9.4 Disposition of complaints; appeals from dismissal.

(a) A complaint which, together with the answer, if any, and the results of any investigation conducted by the director, establishes a prima facie violation of the Arkansas Real Estate License Law or Commission regulations shall be presented to and reasonably disposed of by the Commission. Likewise, any investigation initiated and conducted by the director without a formal complaint which results in a determination by the director that there exists a prima facie violation of the Arkansas Real Estate License Law or Commission regulations shall also be presented to and reasonably disposed of by the Commission. (b) (1) Any person whose complaint is dismissed by the director without a hearing may appeal such dismissal to the Commission in the following manner:

(i) The request for appeal must be in writing and received in the offices of the Commission not later than sixty (60) days following the date of dismissal by the director; and

(ii) The request for appeal must be accompanied by the appeal filing fee; and

(iii) The Commission staff shall determine the cost of preparing the record for the Commission's review, which cost shall be paid by the appellant within thirty (30) days after notification of the amount; otherwise the appeal will be dismissed. (2) Upon submission of the appeal, the Commission shall review the written record and either uphold or overrule the director's decision. The parties may submit written arguments but no new evidence. Any newly discovered evidence must first be presented to the director. If the decision is overruled, the Commission may either order a hearing or request further investigation or documentation of the complaint. If the Commission review results in a hearing being ordered on the complaint, both the filing fee and the cost of preparing the record shall be refunded to the appellant.

(3) Provided, however, that a person may not appear before the Commission in connection with any matter pending before the Commission for administrative adjudication except upon notice and opportunity for all parties to participate.