

Subchapter J. SUMMARY PROCEEDINGS.

§22.182. Summary Decision.

- (a) **Motion for summary decision.** The presiding officer may grant a motion for summary decision on any or all issues to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed, or evidence of record show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor, as a matter of law, on the issues expressly set forth in the motion.
- (b) **Filing and contents of motion.** Any party to a proceeding may move for summary decision on any or all of the issues. The motion may be filed at any time before the close of the hearing on the merits. The party filing the motion shall demonstrate that the issue or issues may be resolved by summary decision in accordance with the standard set forth in subsection (a) of this section. Affidavits in support of the motion shall be based on personal knowledge and shall set forth such facts as would be admissible in evidence. A motion for summary decision shall specifically describe the facts upon which the request for summary decision is based, the information and materials which demonstrate those facts, and the laws or legal theories that entitle the movant to summary decision.
- (c) **Response to motion.** Any response to a motion for summary decision shall be filed within the time set by the presiding officer. A party opposing the motion shall show, by affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed, or evidence of record, that there is a genuine issue of material fact for determination at the hearing, or that summary decision is inappropriate as a matter of law.
- (d) **Hearing on the motion.** If appropriate, the presiding officer shall set the motion for hearing.
- (e) **No further hearing.** No further evidentiary hearing shall be held on issues for which summary decision has been granted. The presiding officer will issue a Proposal for Decision or interim order on the issues recommended to be resolved by summary decision. Parties may file exceptions and replies to exceptions to a Proposal for Decision recommending resolution of issues by summary decision. An order granting or denying partial summary decision is appealable to the commission.