



Ohio Administrative Code

Rule 3745-47-20 Discovery; availability of agency files.

Effective: April 2, 2012

(A) Ex parte communications.

(1) No party to an adjudication proceeding shall engage in or encourage other persons to engage in ex parte communications with the hearing examiner about any matter that is the subject of the adjudication proceeding. The hearing examiner shall not entertain such communications.

(2) No persons identified in paragraphs (P)(1)(b) to (P)(1)(e) of rule 3745-47-02 of the Administrative Code shall engage in or encourage other persons to engage in ex parte communications with the director, the assistant director, or the deputy directors about any matter that is the subject of the adjudication proceeding. The director, the assistant director, and the deputy directors shall not entertain such communications.

(3) The director, the assistant director, the deputy directors, and the hearing examiner may participate in conferences or any other discussions in which all the parties have a right to participate.

(B) All communications prohibited by paragraph (A) of this rule shall be reported immediately to the hearing examiner, who shall place the communication or a memorandum describing the communication in public files associated with the case, but separate from the record material upon which the agency will rely in reaching a decision. The hearing examiner shall take such additional action as the hearing examiner deems advisable.

(C) A hearing examiner shall be disqualified upon the hearing examiner filing an affidavit stating the reason for disqualification. A hearing examiner shall file a disqualification affidavit for either of the following reasons:

(1) If for any reason the hearing examiner may not be able to preside in a fair and impartial manner and render an impartial report and recommendation to the director.



(2) If the hearing examiner receives, or has during the previous two years received, ten per cent or more of the hearing examiner's gross personal income for a calendar year from a party or any subsidiary or owner thereof. For purposes of this paragraph, "party or any subsidiary or owner thereof" does not include the state. The hearing examiner's gross personal income includes retirement benefits, consultant fees, and stock dividends, but does not include income from diversified investments where the hearing examiner does not know the identity of the primary sources of income.

(D) Hearing examiners shall behave in the manner prescribed for judges generally in the "Ohio Code of Judicial Conduct" (2010).

(E) It shall not be deemed a violation of this rule if the director, in the performance of duties and functions other than decision-making in an adjudication proceeding, gathers information or expresses opinions on matters of fact or law that are the subject of any adjudication proceeding.