



Ohio Administrative Code Rule 4167-14-02 Hearings and appeals.

Effective: January 1, 2014

(A) Definitions.

For purposes of this rule:

(1) "Affected party" means any public employer, public employee, or public employee representative affected by an order, rule or Ohio employment risk reduction standard proposed, adopted, or otherwise issued pursuant to this chapter.

(2) "Program action" means the proposal, adoption, or issuance of the order, rule, or standard under this chapter.

(B) Request of hearing from the superintendent.

Any affected party may request, within fourteen calendar days of a program action, a hearing from the superintendent.

(1) The superintendent shall appoint a hearing officer within fourteen calendar days of the receipt of the request.

(2) The hearing officer shall hold a hearing within fourteen calendar days of appointment. The hearing will be held in conformance with the procedures outlined in section 119.09 of the Revised Code.

(a) Continuances may be ordered by the hearing officer on the superintendent's own motion, or may be granted by the hearing officer on motion or application of any party filed in writing and showing good and sufficient cause for the continuance.

(b) The parties may, by stipulations filed in writing with the hearing officer or orally presented at the



hearing, agree on any facts involved in the proceedings, but the hearing officer may thereafter require development of any fact necessary to a proper determination of a controversy.

(3) The hearing officer shall render a decision within fourteen calendar days of the hearing.

(4) The hearing officer's decision shall be a final order after thirty days, unless:

(a) Within thirty days, the adversely impacted party appeals the decision to the superintendent pursuant to paragraph (C) of this rule; or

(b) The superintendent, on the superintendent's own motion, modifies or reverses the decision within thirty days. The superintendent's determination shall be a final order after thirty days of issuance if it has not been appealed pursuant to paragraph (D) of this rule.

(C) Appeal of hearing officer's decision to superintendent.

A public employer, public employee, or public employee representative may appeal the decision of the hearing officer to the superintendent pursuant to chapter 119. of the Revised Code, provided that the appeal is made within thirty days of the receipt of the hearing officer's decision.

(1) The superintendent shall review the record of the hearing and issue a determination within thirty days of receipt of the appeal of the hearing officer's decision.

(2) The superintendent's determination shall be a final order after thirty days of issuance if it has not been appealed pursuant to paragraph (D) of this rule.

(D) Appeal of superintendent's determination to court.

(1) An affected party that has received a determination by the superintendent under paragraph (B)(4)(b) or (C)(1) of this rule may, within thirty calendar days of issuance of the determination, appeal to the court of common pleas of Franklin county or to the court of common pleas of the county in which the alleged violation has occurred.



(2) The court shall conduct a hearing on the appeal and shall, pursuant to division (B)(1) of section 4167.16 of the Revised Code, give preference to all proceedings under this rule over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. The hearing shall proceed as in the case of a civil action as provided for in Chapter 2505. of the Revised Code, and the court shall determine the rights of the parties in accordance with the laws applicable to the action.

(3) If the court finds an undue hardship to the appellant as defined in rule 4167-5-02 of the Administrative Code will result from the enforcement of the order pending determination of the appeal, the court may grant a suspension of the order and fix the terms thereof.

(4) The court shall affirm the order of the superintendent upon consideration of the record as a whole and additional evidence as the court has admitted, if the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such finding, the court shall reverse, vacate or modify the order or make such other ruling as is supported by law.

(5) The judgment of the court is final and conclusive unless reversed, vacated, or modified on appeal as provided in Chapter 2505. of the Revised Code.