



Ohio Administrative Code

Rule 4901-1-25 Subpoenas.

Effective: June 15, 2014

(A) The commission, any commissioner, the legal director, the deputy legal director, or an attorney examiner may issue subpoenas, upon their own motion or upon motion of any party. A subpoena shall command the person to whom it is directed to attend and give testimony at the time and place specified therein. A subpoena may also command such person to produce the books, papers, documents, or other tangible things described therein. A party may request a subpoena by either of the following methods:

(1) A party may file a motion for a subpoena with the docketing division. A completed subpoena form, ready for signature, shall accompany the motion. The attorney examiner assigned to the case, or the legal director or deputy legal director or their designee, will review the filing and, if appropriate, sign the subpoena. The attorney examiner, legal director, deputy legal director, or designee will return via United States mail the signed subpoena, with a cover letter, to the party that filed the motion. A copy of the cover letter will be docketed in the case file.

(2) To receive expedited treatment, a motion for a subpoena and the subpoena itself should first be submitted in person to the attorney examiner assigned to the case, or to the legal director or a designee, for signature of the subpoena. After the subpoena is signed, a copy of the motion for a subpoena and a copy of the signed subpoena shall then be filed with the docketing division by the requesting party and served upon the parties to the case. The person seeking the subpoena shall retain the original signed subpoena and make arrangements for its service.

(B) Arranging for service of a signed subpoena is the responsibility of the person requesting the subpoena. A subpoena may be served by any other person who is not a party and who is not less than eighteen years of age. Service of a subpoena upon a person named therein shall be made by delivering it to such person, or by reading it to him or her in person, leaving it at his or her place of residence, leaving it at his or her business address if the person is a party or employee of a party to the case, or mailing the subpoena via United States mail as certified or express mail, return receipt requested, with instructions to the delivering postal authority to show to whom delivered, date of



delivery, and address where deliver. A subpoena may be served at any place within this state. The person serving the subpoena shall file a return thereof with the docketing division. When the subpoena is served by mail, the person filing the return shall include the signed receipt with the return.

(C) The commission, the legal director, the deputy legal director, or an attorney examiner, upon their own motion or upon motion of any party, may quash a subpoena if it is unreasonable or oppressive, or condition the denial of such a motion upon the advancement by the party on whose behalf the subpoena was issued of the reasonable costs of producing the books, papers, documents, or other tangible things described therein.

(D) A subpoena may require a person, other than a member of the commission staff, to attend and give testimony at a deposition, and to produce designated books, papers, documents, or other tangible things within the scope of discovery set forth in rule 4901-1-16 of the Administrative Code. Such a subpoena is subject to the provisions of rule 4901-1-24 of the Administrative Code as well as paragraph (C) of this rule.

(E) Unless otherwise ordered for good cause shown, all motions for subpoenas requiring the attendance of witnesses at a hearing must be filed with the commission no later than ten days prior to the commencement of the hearing or, if expedited treatment is requested, no later than five days prior to the commencement of the hearing.

(F) Any persons subpoenaed to appear at a commission hearing, other than a party or an officer, agent, or employee of a party, shall receive the same witness fees and mileage expenses provided in civil actions in courts of record. For purposes of this paragraph, the term "employee" includes consultants and other persons retained or specially employed by a party for purposes of the proceeding. If the witness is subpoenaed at the request of one or more parties, the witness fees and mileage expenses shall be paid by such party or parties. If the witness is subpoenaed upon motion of the commission, a commissioner, the legal director, the deputy legal director, or an attorney examiner, the witness fees and mileage expenses shall be paid by the state, in accordance with section 4903.05 of the Revised Code. Unless otherwise ordered, a motion for a subpoena requiring the attendance of a witness at a hearing shall be accompanied by a deposit in the form of a check made payable to the person subpoenaed sufficient to cover the required witness fees and mileage



expenses for one day's attendance. A separate deposit shall be required for each witness. The deposit shall be tendered to the fiscal officer of the commission, who shall retain it until the hearing is completed, at which time the officer shall tender the check to the witness. The fiscal officer shall attempt to resolve any payment controversies between the parties. The fiscal officer shall bring any unresolved controversies to the attention of the commission, the legal director, the deputy legal director, or the attorney examiner for resolution.

(G) If any person fails to obey a subpoena issued by the commission, a commissioner, the legal director, the deputy legal director, or an attorney examiner, the commission may seek appropriate judicial relief against such person under section 4903.02 or 4903.04 of the Revised Code.

(H) A sample subpoena is provided in the appendix to this rule.