



## Ohio Administrative Code

### Rule 4906-2-14 General provisions and scope of discovery.

Effective: December 11, 2015

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(A) The purpose of rules 4906-2-14 to 4906-2-22 of the Administrative Code is to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in board proceedings. These rules are intended to minimize board intervention in the discovery process.

(B) Except as otherwise provided in this rule, any party to a board proceeding may obtain discovery of any matter, not privileged, which is relevant to the subject matter of that proceeding. It is not grounds for objection that the information sought would be inadmissible at the hearing, if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. Discovery may be obtained through interrogatories, requests for the production of documents and things or permission to enter upon land or other property, depositions and requests for admission. The frequency of using these discovery methods is not limited unless the board orders otherwise under rule 4906-2-21 of the Administrative Code.

(C) Any party may, through interrogatories, require any other party to identify each expert witness expected to testify at the hearing and to state the subject matter on which the expert is expected to testify. Thereafter, any party may discover from the expert or other party facts or data known or opinions held by the expert which are relevant to the stated subject matter. A party who has retained or specially employed an expert may, with the approval of the board, require the party conducting discovery to pay the expert a reasonable fee for the time spent responding to discovery requests.

(D) Discovery responses which are complete when made need not be supplemented with subsequently acquired information unless:

(1) The response did not fully identify each expert witness expected to testify at the hearing and stated the subject matter upon which each expert was expected to testify.

(2) The responding party later learned that the response was incorrect or otherwise materially



deficient.

(3) The response indicated that the information sought was unknown or nonexistent and such information subsequently became known or existent.

(4) An order of the board or agreement of the parties provides for the supplementation of responses.

(5) Requests for the supplementation of responses are submitted prior to the commencement of the hearing.

(E) The supplementation of responses required under paragraph (D) of this rule and requests for supplementation of responses submitted pursuant to paragraph (D)(5) of this rule shall be provided within five business days of discovery of the new information.

(F) Nothing in rules 4906-2-14 to 4906-2-22 of the Administrative Code precludes parties from conducting informal discovery by mutually agreeable methods or by stipulation.

(G) A discovery request under rules 4906-2-14 to 4906-2-22 of the Administrative Code may not seek information from any party which is available in prefiled testimony, prehearing data submissions, or other documents which that party has filed with the board in the pending proceeding. Before serving any discovery request, a party must first make a reasonable effort to determine whether the information sought is available from such sources.

(H) For purposes of rules 4906-2-14 to 4906-2-22 of the Administrative Code, the term "party" includes any person who has filed a notice or petition to intervene which is pending at the time a discovery request or motion is to be served or filed.

(I) Rules 4906-2-14 to 4906-2-22 of the Administrative Code do not apply to board staff.

(J) Discovery may not be used to harass or delay existing procedural schedules.