



Ohio Administrative Code

Rule 4906-2-23 Subpoenas.

Effective: December 11, 2015

(A) The board, any board member empowered to vote, or the administrative law judge assigned to a case may issue subpoenas, upon their own motion or upon motion of any party or the staff. 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 a person to produce the books, papers, documents, or other tangible things described therein. A copy of the motion for a subpoena and the subpoena itself should be submitted in person to the board, any board member entitled to vote, or the administrative law judge assigned to the case 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 be docketed and served upon the parties of the case. The person seeking the subpoena shall file the original signed subpoena and make arrangements for its service.

(B) Arranging for service of a signed subpoena is the responsibility of the requesting person. A subpoena may be served by a sheriff, deputy sheriff, or 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, 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 delivered. 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 a subpoena is served by mail, the person filing the return shall include the signed receipt with the return.

(C) The board or the administrative law judge may, upon their own motion or upon motion of any party, 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 board 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 4906-2-14 of the Administrative Code. Such a subpoena is subject to the provisions of rule 4906-2-21 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 board no later than five days prior to the commencement of the hearing.

(F) Any persons subpoenaed to appear at a board 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 board, any board member entitled to vote, or the administrative law judge, 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, an application for a subpoena requiring the attendance of a witness at a hearing shall be accompanied by a deposit sufficient to cover the required witness fees and mileage expenses for one day's attendance. The deposit shall be tendered to the fiscal officer of the board, who shall retain it until the hearing is completed, at which time the officer shall pay the witness the necessary fees and expenses, and shall either charge the party making the deposit for any deficiency or refund to such party any surplus remaining from the deposit.

(G) If any person fails to obey a subpoena issued by the board, any board member entitled to vote or an administrative law judge, the board 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.