



Ohio Administrative Code

Rule 5101:6-50-09 Chapter 119. hearings: conduct of the hearing and adjudication order.

Effective: January 1, 2024

(A) Conduct of the hearing.

(1) The date, time, and place of any hearing before ODJFS is set by ODJFS or the hearing examiner. The hearing examiner is to provide written or electronic notice before the date of the hearing to all participants in the hearing and file a copy of the written notice with the depository agent. Hearings are to be scheduled in accordance with the following requirements.

(a) All hearings are to be conducted during normal business hours unless other times are authorized by the director.

(b) All hearings will be conducted virtually unless objected to by either of the parties or if the hearing examiner, after hearing arguments from both parties, determines the hearing should be conducted in person. If so determined, the hearing is to be conducted in Columbus.

(c) Once begun, any hearing normally continues day to day until completed, unless continued by the hearing officer for good cause shown.

(2) Subject to the prior approval of the hearing examiner, any appellant may choose to present the case entirely in writing provided that a written request is made by the appellant no later than fourteen business days before the date scheduled for the hearing. Any request to present the case entirely in writing is to be filed with the depository agent and served as provided in rule 5101:6-50-05 of the Administrative Code. Any appellant who elects to present the case entirely in writing is to do so in accordance with procedures ordered by the hearing examiner. The hearing examiner's order is to be in writing and filed with the depository agent. In the event that the appellant elects to present its case in writing, ODJFS, with the consent of the appellant, may elect to present its case entirely in writing. Nothing in this rule is to be construed as preventing ODJFS from compelling the attendance of the appellant or other witnesses at the hearing and questioning the appellant or other witnesses as if on cross-examination. Nothing in this rule is to be construed as preventing any appellant from



examining any witnesses or evidence presented by ODJFS at the hearing.

(3) During the course of any hearing, the participants to the proceeding may enter into oral stipulations of fact, procedure, or the authenticity of documents, which are to be incorporated into the record and bind the conduct of the participants. The hearing examiner conducting the case may require oral stipulations to be reduced to writing and submitted to the hearing examiner. The hearing examiner assigned to conduct a hearing has the power to rule on the admissibility of evidence or testimony, but a participant may make objections to the rulings thereon. If the hearing examiner refuses to admit evidence or testimony, the participant seeking admission of same is to make a proffer thereof and such proffer will be made a part of the record of the hearing. The hearing examiner may refer to the guidelines contained in the Ohio Rules of Evidence (7/1/2023) in making decisions on admissibility.

(4) Any audit report, report of examination, exit conference report, or report of final settlement issued by ODJFS and entered into evidence is to be considered prima facie evidence of what it asserts and its admissibility is not subject to the consent of the appellant.

(B) Findings of fact, conclusions of law, recommendations, and objections.

(1) Upon the conclusion of any hearing, the hearing examiner is to prepare a written report of findings of fact, conclusions of law, and recommendations of action to be taken by ODJFS in disposition of the hearing. The report is to be filed with the depository agent. Within five days of the report's filing with the depository agent, as evidenced by the time stamp of the agent, ODJFS is to send by certified mail, return receipt requested, to the appellant, the appellant's attorney, or other authorized representative of record a copy of the hearing examiner's report. The report is to be considered to have been mailed as of the mailing date appearing on United States postal service form 3800 (rev. 1/2023), or any future equivalent postal service form. If delivery is not successful by certified mail, the applicable provisions of section 119.07 of the Revised Code are to be followed.

(2) An appellant may file written objections to the hearing examiner's report. Any such objections are to be received no later than ten days after the appellant receives the report. The director may grant an extension of time to file objections if the appellant's written request for an extension is received by ODJFS no later than ten days after the appellant's receipt of the report. The date the



appellant receives the hearing examiner's report is the receipt date indicated on the United States postal service form 3800, or any future equivalent postal services form. The director will consider timely written objections before approving, modifying, or disapproving the recommendations of the hearing examiner.

(C) Final order of adjudication.

(1) Recommendations of the hearing examiner may be approved, modified, or disapproved by the director. The director may order additional testimony to be taken and permit the introduction of further documentary evidence. In those instances where the director modifies or disapproves the recommendations of the hearing examiner, the director will include the reasons therefor and incorporate said reasons into the final order of adjudication.

(2) After the director has entered an order approving, modifying, or disapproving the hearing examiner's recommendation on the ODJFS journal of proceedings, the director will mail to the appellant by certified mail, return receipt requested, a copy of the order and a statement of the time and method by which an appeal may be perfected. A copy of such order is to be mailed to the attorney or other authorized representative of record representing the party.

(D) Appeal of final adjudication order.

(1) Any licensee against whom a final order of adjudication is entered, pursuant to this rule, may appeal that order to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident.

(2) Any party desiring an appeal pursuant to this rule is to file a notice of appeal with the proper depository agent setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with the law. The notice may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with the law. In order to be determined filed with ODJFS, the notice of appeal is to be received by the proper depository agent, as evidenced by an ODJFS date and time stamp, no later than fifteen days after service on the affected party, as evidenced by the mailing date on the United



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States postal service form 3800, or any future equivalent postal service form, of the order to be appealed from. Appellant is to also file the notice of appeal with the court of common pleas no later than fifteen days after the mailing to the affected party, as evidenced by United States postal service form 3800, or any future equivalent postal service form, of the order to be appealed from. In filing a notice of appeal with the agency or court, the notice that is filed may be the original notice or a copy of the original notice.