



Ohio Revised Code

Section 121.931 Petition to restate a principle of law or policy in a rule.

Effective: August 18, 2019

Legislation: Senate Bill 221 - 132nd General Assembly

(A) A person may petition an agency in writing to restate a principle of law or policy in a rule if (1) the person was a party to an adjudication or other determination before an agency that has resulted in an order or other disposition or was a party to a civil action in which judgment has been entered, and (2) the adjudication or other determination, or the civil action, involved a principle of law or policy relied upon by the agency that, under section 121.93 of the Revised Code, should have been supplanted by its restatement in a rule but has not been so supplanted. The petition shall briefly explain why the principle of law or policy should, under section 121.93 of the Revised Code, be supplanted by its restatement in a rule. The person shall send the petition to the agency not later than the ninetieth day after the order or other disposition was issued or the judgment was entered. The person also shall send a copy of the petition to the joint committee on agency rule review.

(B) The agency, not later than the thirtieth day after receiving a timely petition, shall consider the petition in light of section 121.93 of the Revised Code, and shall notify the petitioner in writing, by certified mail, return receipt requested, whether it grants or intends to deny the petition.

(1) If the agency grants the petition, it shall commence the rule-making process as soon as it is reasonably feasible to do so, but not later than the date that is six months after the petition was granted. The principle of law or policy as it is restated in a rule does not need to be wholly congruent with the supplanted principle of law or policy. The agency lawfully may improve or develop further the supplanted principle of law or policy.

The agency may continue to rely upon the principle of law or policy, but only while it is complying with the preceding paragraph. The agency may not rely upon the principle of law or policy in advising with regard to or in determining the rights or liabilities of a person if the agency fails to commence the rule-making process by the deadline specified in the preceding paragraph, or if, after commencing the rule-making process, the agency neglects or abandons the rule-making process before it is completed.



(2) If the agency intends to deny the petition, it shall send the petitioner a notice affording the petitioner an opportunity for a hearing on the petition and briefly explaining why the agency intends to deny the petition. If the petitioner does not in writing request a hearing within fifteen days after receiving the notice, the agency shall deny the petition and notify the petitioner in writing. If the petitioner responds in writing within the fifteen-day period requesting a hearing, the agency, by certified mail, return receipt requested, promptly shall notify the petitioner of the time and place for the hearing, which shall be not earlier than the thirtieth day after the notice was sent to the petitioner.

(C) At the hearing, the agency shall explain why, notwithstanding section 121.93 of the Revised Code, it intends to deny the petition, and the petitioner shall explain why under that section the petitioner believes the agency's intention to be erroneous. The hearing shall be informal. The petitioner may be assisted by counsel at the hearing.

(D) Not later than the thirtieth day after the hearing concludes, the agency shall grant or deny the petition.

(1) If the agency grants the petition, it shall commence the rule-making process as soon as it is reasonably feasible to do so, but not later than the date that is six months after the determination was made. The principle of law or policy as it is restated in a rule does not need to be wholly congruent with the supplanted principle of law or policy. The agency lawfully may improve or develop further the supplanted principle of law or policy as it is restated in a rule.

The agency may continue to rely upon the principle of law or policy, but only while it is complying with the preceding paragraph. The agency may not rely upon the principle of law or policy in advising with regard to or in determining the rights or liabilities of a person if the agency fails to commence the rule-making process by the deadline specified in the preceding paragraph, or if, after commencing the rule-making process, the agency neglects or abandons the rule-making process before it is completed.

(2) If the petitioner failed to appear at the hearing, or if the petitioner failed to persuade the agency that its intention to deny the petition is erroneous, the agency shall deny the petition.

The agency shall send notice in writing to the petitioner of the outcome. If the outcome is denial of



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the petition, the notice shall explain briefly why the agency is denying the petition. The petitioner is not entitled to appeal the outcome.