



Ohio Administrative Code Rule 123:1-49-07 Appeals to division.

Effective: October 25, 2020

(A) Upon completion of an investigation of a jurisdictional complaint, the agency must provide a copy of the investigation report and the determination of the agency to the complainant or the complainant's representative and the affirmative action and equal employment opportunity unit and include a cover letter informing the complainant of his or her right to appeal the determination of the agency to the deputy director of the human resources division or the deputy director's designee and of the right to file a charge affidavit with the Ohio civil rights commission and with the federal equal employment opportunity commission, and of the time limits applicable thereto.

(B) The complainant must file an appeal of an agency determination with the affirmative action and equal employment opportunity unit in writing within fifteen calendar days of receipt of the agency's determination. If the complainant fails to notify the affirmative action and equal employment opportunity unit within the fifteen day period, the determination of the agency is final.

(C) When a complainant files a timely appeal of an agency determination with the affirmative action and equal employment opportunity unit, the agency shall provide a copy of the investigative file and all relevant written information to the deputy director of the human resources division or the deputy director's designee and, upon review, the deputy director of the human resources division or the deputy director's designee may take any of the following dispositive actions:

(1) Accept the determination of the agency and deny the appeal;

(2) Remand the investigative file to the agency for further investigation. Any further investigation by the agency resulting from a remand shall be conducted according to the rules for conducting the original investigation. When further investigation is completed, the agency shall provide a copy of any revised investigation report promptly to the deputy director of the human resources division or the deputy director's designee and the complainant or the complainant's representative and issue a disposition of the appeal based on the revised investigation;



(3) Order a hearing pursuant to rule 123:-1-49-08 of the Administrative Code if the deputy director of the human resources division or the deputy director's designee considers such action to be necessary.

(4) Order the agency to take corrective action determined to be necessary or desirable to resolve the issues and to promote the policy of equal opportunity, whether or not there is a finding of probable cause.

(D) The deputy director of the human resources division or the deputy director's designee shall issue a written decision setting forth the deputy director of the human resources' or the deputy director's designees' reasons for the decision and shall send copies thereof to the complainant, the complainant's representative, and the agency. When corrective action is ordered, the agency shall report promptly to the affirmative action and equal employment opportunity unit that the corrective action has been taken.

(E) Any decision of the deputy director of the human resources division or the deputy director's designee is final. All final decisions shall be sent in writing to the agency and the complainant or the complainant's representative. The decision shall contain a notice of the right to file a charge affidavit with the Ohio civil rights commission and with the federal equal employment opportunity commission and of the time limits for filing such charges.

(F) The deputy director of the human resources division or the deputy director's designee may, in the deputy director of the human resources division or the deputy director's designee's discretion, reopen and reconsider any previous decision when the party requesting reopening submits written argument or evidence which tends to establish that:

(1) New and material evidence is available that was not readily available when the previous decision was issued; or

(2) The previous decision involves an erroneous interpretation of law or regulation or a misapplication of established policy.