



Ohio Administrative Code

Rule 3301-73-16 Witnesses.

Effective: July 27, 2023

(A) All witnesses at any administrative hearing or during any deposition in lieu of live testimony at hearing shall testify under oath or affirmation.

(B) A witness may be accompanied and advised by legal counsel who has been admitted to practice law in the state of Ohio. Participation by counsel for a witness other than the respondent is limited to protection of that witness' rights, and counsel for a witness may neither examine nor cross-examine any witnesses.

(C) Should a witness refuse to answer a question ruled proper at a hearing or disobey a subpoena, the state board may institute contempt proceedings pursuant to section 119.09 of the Revised Code.

(D) Neither a presiding board member nor a presiding hearing officer is a competent witness in any administrative proceeding or subject to deposition in lieu of live testimony. A presiding board member is a board member who has a decisive role in the outcome of the matter in question. A presiding hearing officer is the hearing officer assigned to the matter in question. Evidence or testimony from other persons relating to the mental processes of a presiding board member or presiding hearing officer shall not be admissible in any adjudication proceeding.

(E) Unless the testimony of a non-presiding state board member or a non-presiding hearing officer is material to the factual allegations set forth in the notice of opportunity for hearing, neither a non-presiding state board member nor a non-presiding hearing officer may be a witness or subject to deposition in lieu of live testimony in any adjudication proceeding. A non-presiding board member is a sitting or former board member who does not have a decisive role in the outcome of the matter in question due to recusal, absence or other reason. A non-presiding hearing officer is a hearing officer not assigned to the matter in question.

(F) Any party may move for a separation of witnesses. Absent exceptional circumstances, the hearing officer will order a separation of witnesses. A separation of witnesses does not apply to the



parties or the designated representative(s) of the parties. The hearing officer will determine whether a separation of witnesses will apply to expert witnesses.

(G) Each party, prior to or immediately upon the start of a hearing, shall inform the hearing officer of the identity of each potential witness for his/her case present in the hearing. A witness who remains in the hearing during testimony after a separation of witnesses is ordered will be disqualified by the hearing officer from testifying in the hearing.