



Ohio Administrative Code Rule 3745-47-12 Adjudication hearing procedures.

Effective: February 26, 2024

(A) Adjudication hearing procedures:

- (1) A record of the testimony and other evidence submitted shall be memorialized by stenographic record.
- (2) The hearing examiner shall provide the parties the opportunity to make an opening statement.
- (3) A witness at the hearing shall testify under oath or affirmation which will be administered by the hearing examiner.

(B) During an adjudication hearing the following procedures may occur:

- (1) On the hearing examiner's own motion or on the motion of any party, witnesses may be separated during the hearing.
- (2) In accordance with rule 3745-47-15 of the Administrative Code, the parties may present their cases-in-chief and submit evidence into the record.
- (3) The hearing examiner may permit rebuttal evidence to be submitted.
- (4) The parties may submit oral or written closing arguments.
- (5) The hearing examiner may use the "Ohio Rules of Evidence" as guidance in making evidentiary rulings.

(C) The hearing examiner shall admit all relevant and material evidence, except evidence that is unduly repetitious, even though inadmissible under the "Ohio Rules of Evidence" applicable to judicial proceedings. All records maintained by the agency or the agency's duly authorized



representative shall not be inadmissible for lack of authentication if the custodian of such records certifies the identity of the records in writing. The weight to be given evidence shall be determined by the evidence's reliability and probative value. In all adjudication hearings the testimony of witnesses shall be taken orally, except as provided by this chapter or by the hearing examiner. Parties shall have the right to cross-examine witnesses.

(D) If a party objects to the admission or exclusion of any evidence, that party shall briefly state the grounds for such objection. The stenographic record shall include any argument or debate thereon, unless the hearing examiner, with the consent of all parties, orders that such argument not be recorded. The ruling of the hearing examiner on any objection shall be part of the stenographic record.

(E) A copy of each documentary exhibit filed with the hearing examiner shall be furnished to each party. A true copy of an exhibit may, in the discretion of the hearing examiner, be substituted for the original.

(F) Whenever evidence is ruled inadmissible, the party offering such evidence may make an offer of proof, which shall be included in the stenographic record. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature and substance of the evidence excluded. If the evidence consists of a document or exhibit, the evidence shall be inserted in the record in total. If the director decides that the hearing examiner's ruling in excluding the evidence was erroneous, the adjudication hearing may be reopened to permit the taking of such evidence, or, where appropriate, the director may evaluate the evidence and proceed to a final decision.

(G) Official notice may be taken of such matters as are within the expertise of the hearing examiner. The parties shall be given adequate opportunity to show that such facts are erroneously noticed.

(H) Parties may file proposed findings, orders, conclusions of law, or briefs for consideration by the hearing examiner not later than fourteen days after receipt of the stenographic record of the adjudication hearing or such other period of time as the hearing examiner may set.

(I) After the conclusion of an adjudication hearing and prior to the submission of a report and recommendation, the hearing examiner, upon motion of a party, may permit the parties to file newly



discovered documentary evidence that by due diligence could not have been discovered prior to the adjudication hearing.

(J) No interlocutory appeal of any ruling or order of the hearing examiner may be made to the director.

(K) Due to the duties in deciding adjudicatory matters, the director, assistant director, and deputy directors shall not be competent witnesses or deponents in any adjudication proceeding before the agency.

(L) Evidence from other persons of the director, assistant director, and deputy directors' mental processes including but not limited to deliberations shall not be admissible.