



Ohio Administrative Code

Rule 4146-7-02 Procedure; evidence; rights of parties.

Effective: August 17, 2015

(A) Procedure

The review commission and hearing officers shall conduct hearings and other proceedings in a case in such order and manner and shall take any steps consistent with the impartial discharge of their duties which appear reasonable and necessary to ascertain all relevant facts and to render a fair and complete decision on all issues which appear to be presented.

(B) Evidence

All facts relevant to a fair and complete decision shall be received as directly and simply as possible. The proceedings shall be informal, and the review commission and hearing officers shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure.

(C) Rights of parties

The review commission or hearing officer conducting a proceeding may examine the interested parties and other witnesses, and each interested party and the interested party's representative shall have all rights of fair hearing, including:

- (1) The right of examination and cross-examination of witnesses,
- (2) The right to present testimony and other evidence,
- (3) The right to inspect and examine documents, files, reports and records received in evidence,
- (4) The right to present testimony and other evidence in explanation and rebuttal,
- (5) The right to subpoenas for witnesses and documentary evidence and the right to present



argument.

(D) Duty of hearing officer or review commission in conducting hearings.

The review commission or hearing officer conducting the proceeding shall advise each party as to rights, aid in examining and cross-examining witnesses, and give every assistance compatible with the discharge of the official duties of the review commission or hearing officer.

(E) Stipulations by the parties.

Interested parties may submit stipulations or any other agreed statement respecting all or any part of the facts involved in the case. Interested parties may also waive the right to a hearing. The review commission or hearing officer conducting such proceeding shall require or obtain such additional evidence as may be necessary to render a fair and complete decision.

(F) Securing witnesses and documents; special investigations.

(1) The attendance of witnesses and the production of other evidence may be required by the review commission or hearing officer as they are deemed necessary to present fully and adequately any issue to be determined.

(2) Whenever an investigation, payroll audit or other examination is necessary to present fully and adequately any issue to be determined in a case, the review commission or hearing officer shall request that same be made by the director or the director's deputy and submitted in evidence.

(G) Public hearings.

All hearings under agency 4146 of the Administrative Code shall be open to the public, but the hearing officer or review commission conducting a hearing may close the hearing as to other than interested parties to the extent necessary to protect the interests and rights of the claimant or employer to a fair hearing.

(H) Adjournment or continuance.



On its own motion, or upon the showing of good cause by an interested party, or whenever it appears that such action is necessary to afford the claimant or employer a reasonable opportunity for a fair hearing, the review commission or hearing officer may adjourn or continue a hearing to another time or place. Notice of the time and place of the adjourned or continued hearing shall be given to the interested parties.

(I) Consolidation of cases.

When the same or substantially similar evidence is relevant and material to the issues in more than one case, proceedings thereon may be conducted jointly, a single record of the proceedings made and evidence introduced with respect to one case considered as introduced in the others, unless such consolidation would be prejudicial to the interests or rights of any interested party.

(J) Failure of appealing party to appear.

(1) Failure to appear

If the appealing party in any case fails to appear personally or by counsel or other representative at a scheduled hearing, except as provided by rule 4146-23-05 of the Administrative Code, after notice of the hearing was sent by electronic means or mailed to such party, the review commission or hearing officer to whom the case is assigned for decision shall dismiss the appeal. Notice of dismissal shall be sent or mailed to each interested party. The notice of dismissal shall contain a notice that no further administrative appeal may be instituted and no further hearing may be held, except for a hearing on good cause for failure to appear provided by paragraph (J)(2) of rule 4146-7-02 of the Administrative Code.

(2) Good cause for failure to appear.

The hearing officer or review commission shall vacate the dismissal upon a showing that the notice was not sent by electronic means or mailed to the appealing party or the appealing party shows good cause for failure to appear within fourteen days after the scheduled hearing date.



(a) In the event there is no showing of good cause for failure to appear within such fourteen day period, the dismissal is considered final.

(b) If the appealing party files a statement as to why they failed to appear within fourteen days, but the statement is deemed not to establish good cause, notice shall be sent by electronic means or mailed to the party advising them that the statement has been found not to establish good cause. The appealing party has ten days from the date this notice was sent or mailed to request a hearing on the issue of whether they have shown good cause for failure to appear. If the appealing party timely requests a hearing, a hearing will be scheduled on the issue of good cause for failure to appear. Failure to appear at a hearing scheduled on the issue of good cause results in the dismissal becoming final.

(c) In the event there is a finding of good cause for failure to appear, the hearing shall be rescheduled with due notice to all interested parties.

(K) Oral argument and briefs.

At the conclusion of any hearing, the interested parties shall be granted a reasonable opportunity to present argument on all issues of fact and law to be decided. The review commission or hearing officer to whom a case is assigned shall afford the interested parties an opportunity to present oral argument or to file briefs or may permit both, and may limit the time of oral argument; however, any party not represented by legal counsel shall not be limited to the filing of briefs.

(L) Exhibits.

Exhibits shall be properly marked, identified and placed in the review commission file. Those exhibits that cannot be placed in the file shall be retained by the review commission pending further proceedings. When the case is finally closed, the exhibits shall be disposed of according to law.

(M) Reopening of proceedings.

At any time after hearing and prior to the issuance of a decision, the review commission or the hearing officer to whom the case is assigned for hearing and decision may, for good cause, reopen



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the appeal for further proceedings, provided that an appeal shall not be reopened when the appeal has been dismissed.