



Ohio Administrative Code

Rule 4723-16-08 Subpoenas for purpose of hearing.

Effective: February 1, 2020

(A) Upon written request, filed at least forty-five days before the hearing date, the board shall issue a subpoena for purposes of hearing to compel the attendance and testimony of a witness, or production of books, records or papers, at the hearing. The board, board hearing committee or hearing examiner may approve a subpoena request filed less than thirty days before the hearing date only upon a showing by the requestor of good cause for the short time frame.

(B) Each subpoena request shall specify the name and address of the individual to be served, or the books, records or papers to be produced and name and address of the person who is to appear at the hearing to produce the books, records or papers. The board shall not be responsible for determining the address of any individual named in a subpoena.

(C) Unless a subpoena is challenged as described in paragraph (E) of this rule, the board shall issue each subpoena requested within fourteen days of request. Subpoenas shall be directed to the sheriff of the county where the witness resides and returned in the same manner as a subpoena in a criminal case, as specified in section 119.09 of the Revised Code.

(D) Upon agreement of the parties, the board, board hearing committee or hearing examiner may approve an alternative means of obtaining a witness's testimony, including, but not limited to, affidavit, deposition or testimony by telecommunication.

(E) Upon written motion filed according to rule 4723-16-04 of the Administrative Code, the board, board hearing committee or hearing examiner may order any subpoena quashed or modified for good cause shown. Good cause may be shown for reasons including but not limited to:

(1) The total number of subpoenas requested by a party is unreasonable and a showing of necessity has not been made;

(2) A subpoena does not provide a reasonable time to comply;



(3) A subpoena requires disclosure of information that is privileged or confidential under law and no exception or waiver applies;

(4) A subpoena for books, records or papers does not specify dates or time frames or specifies dates or time frames that are unreasonable or not relevant to the incidents described in the notice of opportunity for hearing; or

(5) A subpoena subjects a witness to undue burden. For purposes of this rule, the board, board hearing committee or hearing examiner may approve an alternative means of obtaining a witness's testimony, including but not limited to, affidavit, deposition, or testimony by telephone or other means of telecommunication. If no reasonable means can be used to alleviate an undue burden on a witness, the board, board hearing committee or hearing examiner may quash the subpoena. A finding of an undue burden requires the showing of an extraordinary hardship that is more than the usual and expected inconvenience of attending a hearing. In considering whether a burden is undue, the board, board hearing committee or hearing examiner shall consider the magnitude of the burden on the witness and the materiality of the witness's testimony.

(F) In the event the number of subpoenas requested appears to be unreasonable, the board hearing committee or hearing examiner may require a showing of necessity for the witnesses or records, and in the absence of such showing, may limit the number of subpoenas.

(G) At any point after a hearing has begun, the board, board hearing committee or hearing examiner may order that a subpoena be issued to compel the attendance and testimony of a witness or production of books, records or papers.