



## Ohio Administrative Code

### Rule 4734-4-02 Representatives; appearances; communications; applicability.

Effective: August 12, 2002

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(A) As used in Chapter 4734-4 of the Administrative Code, respondent shall be defined as the person who is requesting or has requested a hearing as provided in Chapter 119. of the Revised Code.

(B) Any provision of the rules in this chapter which references a hearing officer shall apply to the board in those instances in which the administrative hearing is conducted before the board, or to an attorney hearing examiner hired by the board or presiding board member, unless such rule by its nature is clearly inapplicable.

(C) All filings in any cases before the board shall be directed to the attention of the executive director and filed at the board office.

(D) A respondent may represent him or herself or may be represented by an attorney admitted to the practice of law in Ohio. If the respondent does represent him or herself, he or she shall be deemed the representative of record for purposes of Chapter 4734-4 of the Administrative Code.

(E) A respondent is not required to personally appear at any hearing provided he or she has not been subpoenaed and has authorized his or her representative to represent him or her in all facets of a hearing before the board.

(F) A respondent or his or her representative may present his or her position, arguments, or contentions in writing, rather than personally appearing at any hearing, provided the respondent has not been subpoenaed.

(G) The representative of record for the respondent shall file a notice of appearance of counsel in writing with the board and shall serve such notice upon the representative of record from the office of the attorney general.

(H) The representative of record from the office of the attorney general shall, within fourteen days of



the hearing inform the respondent or if applicable, the respondent's representative of record, in writing, that the attorney general's representative will serve as counsel of record for the case.

(I) Any representative of record who has entered an appearance before the board remains the representative of record unless and until a written withdrawal is filed with the board.

(J) Except as otherwise provided under Chapter 119. of the Revised Code, communications from the board or its hearing officer shall be sent to the representative of record.

(K) The members of the board shall base their decisions on any matter subject to hearing only on the evidence of record. No information acquired by a member of the board in any way other than by review of the evidence of record shall be considered by such member in that member's decision on a matter subject to hearing. The receipt of information about a matter subject to hearing outside the evidence of record shall not disqualify the member from participating in the decision on that matter, unless the member excuses himself or herself from participation in the decision on the ground that he or she cannot restrict his or her decision on the matter only to the evidence of record.

(L) Except as otherwise provided under this chapter or by statute, no hearing officer or member of the board shall initiate or consider ex parte communications concerning a pending or impending adjudicatory proceeding. Nothing contained herein, however, shall preclude the hearing officer or presiding board member from nonsubstantive ex parte communications on procedural matters and matters affecting the efficient conduct of adjudicatory hearings.

(M) The hearing officer and members of the board shall disclose on the record the source and substance of any ex parte or attempted ex parte communications. That disclosure shall be made at the earliest possible opportunity, but at least prior to deliberation on a pending or impending adjudicatory proceeding.

(N) Except as otherwise provided under this chapter or by statute, a rule promulgated under this chapter shall apply only to those administrative proceedings for which a notice of opportunity for hearing was mailed to respondent, or his representative, on or after the effective date of the particular rule.



(O) If any provision of the rules in this chapter is held invalid or if the application of any provision of the rules in this chapter to any person or circumstance is held invalid, the invalidity does not affect any other provision of the rules in this chapter, or the application of any other provision of the rules in this chapter, that can be given effect without the invalid provision or application, and, to this end, the provisions of the rules in this chapter are hereby declared severable.