



Ohio Administrative Code

Rule 5101:6-50-07 Chapter 119. hearings: discovery.

Effective: January 1, 2024

(A) Hearing examiner may allow pre-hearing discovery.

(1) As a part of the authority to conduct the hearing, and except as provided in paragraph (B) of this rule, the hearing examiner may allow pre-hearing discovery of any matter that is not privileged or confidential and is relevant to the subject matter of the proceeding, provided that such discovery is necessary to facilitate the thorough and adequate preparation of the hearing. The participants to any hearing governed by this chapter may also conduct pre-hearing discovery by mutually agreeable methods or by stipulations subject to approval by the hearing examiner. When a method of pre-hearing discovery is permitted, it is to be conducted in accordance with the Ohio Rules of Civil Procedure (7/1/2023) unless the hearing examiner orders otherwise, and except as modified by paragraph (B) of this rule. Use of discovered material at any hearing is to also be governed by the Ohio Rules of Civil Procedure.

(2) When permitted pursuant to this rule, pre-hearing discovery may begin immediately after a hearing request is timely made, and be completed before the actual commencement of the hearing. The hearing examiner may limit the length of the time allowed for discovery and may shorten the time allowed for response to discovery requests. Pre-hearing discovery may be obtained through use of interrogatories, requests for the production of documents, permission to enter upon land or other property, depositions, and requests for admissions.

(3) Nothing in this rule prohibits an appellant or ODJFS from gaining access to any information made public by the operation of state law.

(B) Discovery not permitted in specified certain hearings.

(1) Discovery is not available in hearings requested pursuant to Chapters 5103. and 5104. of the Revised Code unless the parties stipulate to limited or full pre-hearing discovery.



(2) Section 5101.29 of the Revised Code designates the following records held by ODJFS or a county department of job and family services or a public children services agency as not being public records and these records are not discoverable:

(a) Names and other identifying information regarding children enrolled or attending a child day care center or home subject to licensure, certification, or registration under Chapter 5104. of the Revised Code.

(b) Names and other identifying information regarding children placed with an institution or association certified under section 5103.03 of the Revised Code.

(c) Names and other identifying information regarding a person who makes a written or oral complaint regarding an institution or association, child day care center or home subject to licensure, certification or registration under Chapter 5103. or 5104. of the Revised Code.

(C) Depositions.

For the purpose of conducting a hearing, ODJFS or any appellant may take depositions of witnesses residing within or without the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas of this state. Depositions of ODJFS employees are to be conducted in the Columbus offices of ODJFS during normal business hours unless other arrangements are approved by ODJFS.

(D) Subpoena issuance and enforcement.

ODJFS, upon its own motion or that of any appellant, will issue a subpoena requiring the attendance of witnesses and the production of books and records as are necessary for the purpose of conducting a hearing.

(1) Upon the request of the appellant, ODJFS will issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers. ODJFS will issue such subpoena in blank to a party requesting it, who is solely responsible for completing the subpoena form, including the address where the person is to be served, and returning it to the depository agent



along with a written request for service. The written request along with the completed subpoena are to be received by the depository agent no later than twenty-one business days before the commencement of the hearing or deposition, unless otherwise ordered for good cause shown. Upon its own initiative and for its own use, ODJFS may issue a subpoena for any purpose set forth in this rule or otherwise authorized by law. At its discretion, ODJFS may make available electronically a subpoena in blank and may authorize electronic submission of a completed subpoena.

(2) All subpoenas issued under this rule are to be directed to the sheriff of the county where the person to be served resides or is found. The subpoena is to be served and returned in the same manner as a subpoena in a criminal case. Fees and mileage of the sheriff and the witness are to be the same as that allowed in the court of common pleas in criminal cases. ODJFS will pay allowable fees and mileage.

(3) In any case of disobedience or neglect of any subpoena served upon any person, or the refusal of any witness to testify to any matter in which there may be lawful interrogation, ODJFS is to apply to the court of common pleas where such disobedience, neglect, or refusal occurs for an order to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein.