



## Ohio Administrative Code

### Rule 5180:6-50-03 Chapter 119. hearings: notice and requesting a hearing.

Effective: January 1, 2024

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(A) Written notice of intended action.

(1) Whenever ODJFS proposes to take an action that the Ohio general assembly has expressly made subject to the administrative adjudication procedure outlined in Chapter 119. of the Revised Code, ODJFS is to give notice of the intended action to the affected party informing the affected party of the affected party's right to a hearing. Notice is to be given by registered mail, return receipt requested, and at a minimum, include all of the following:

(a) The specific action or actions ODJFS intends to take;

(b) The charges or other reasons for the proposed action or actions;

(c) The statute or rule directly involved;

(d) A statement informing the affected party that the affected party is entitled to a hearing if the affected party requests it within thirty days of the time of mailing the notice;

(e) A statement informing the affected party that at the hearing the affected party may appear in person or through an attorney;

(f) A statement informing the affected party that the affected party or the affected party's attorney may present the affected party's position, arguments or contentions entirely in writing, and that at the hearing the affected party or the affected party's attorney may present evidence and examine witnesses appearing for and against the affected party; and

(g) A statement informing the affected party that rules governing hearings in accordance with Chapter 119. of the Revised Code are found in Chapter 5101:6-50 of the Administrative Code.



(2) ODJFS is to also mail a copy of the notice to the affected party's attorney or other representative of record. To qualify as an attorney or representative of record, the affected party or the attorney or representative is to notify ODJFS, in writing, that the attorney or representative is to be designated the attorney or representative of record. The notification is to include the address where ODJFS should mail the notice to the attorney or representative of record. The mailing of notice to the affected party's attorney or representative is not deemed to perfect service of the notice. Failure to mail a copy of the notice to the attorney or representative of record will not result in failure of otherwise perfected service upon the affected party. In those instances where an affected party is a corporation doing business in Ohio or is incorporated in Ohio, the mailing of notice to the corporation's statutory agent pursuant to sections 1701.07 and 1703.19 of the Revised Code will perfect service provided that all the requirements of paragraph (A) of this rule have been complied with.

(3) When any notice sent by registered mail pursuant to this rule is returned because the affected party fails to claim the notice, ODJFS will send the notice by ordinary mail to the affected party at the affected party's last known address and obtain a certificate of mailing. Service by ordinary mail is complete when the certificate of mailing is obtained unless the notice is returned showing failure of delivery.

(4) If any notice sent by registered or ordinary mail is returned for failure of delivery, ODJFS either will make personal delivery of the notice by an employee or agent of ODJFS or will cause a summary of the substantive provisions of the notice to be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the last known address of the affected party is located. When notice is given by publication, a proof of publication affidavit, with the first publication of the notice set forth in the affidavit, is to be mailed by ordinary mail to the affected party at the affected party's last known address and the notice is to be deemed received as of the date of the last publication. An employee or agent of ODJFS may make personal delivery of the notice upon a party at any time.

(5) Refusal of delivery by personal service or by mail is not failure of delivery and service is deemed to be complete at the time of personal refusal or at the time of receipt by ODJFS of the refused mail as demonstrated by the ODJFS time and date stamp. Failure of delivery occurs only when a mailed notice is returned by the postal authorities marked undeliverable, address or addressee unknown, or



forwarding address unknown or expired.

(B) Request for a hearing.

(1) Any request for a hearing made as the result of notice issued pursuant to paragraph (A) of this rule is to be made in writing and mailed or delivered to the proper depository agent within thirty calendar days of the following, as applicable:

(a) The time of mailing the notice if notice is given pursuant to paragraph (A)(1) of this rule;

(b) The date that service is complete if notice is given pursuant to paragraph (A)(3) or (A)(5) of this rule;

(c) The date of the last publication if notice is given by publication pursuant to paragraph (A)(4) of this rule; or

(d) The date of personal service.

(2) If a request for a hearing is mailed to the proper depository agent, the request is deemed to have been made as follows:

(a) If the request is mailed by certified mail, as of the date stamped by the U.S. postal service on its receipt form.

(b) If the request is mailed by regular U.S. mail, as of the date of the postmark appearing upon the envelope containing the request.

(c) If the request is mailed by regular U.S. mail and the postmark is illegible or fails to appear on the envelope, as of the date of its receipt by the depository agent as evidenced by the agent's time stamp.

(3) If a request for a hearing is made by facsimile transmission or by electronic mail to the proper depository agent, the request is deemed to have been made as of the date of its receipt as evidenced by the receipt date generated by the facsimile transmission or the date of receipt shown in the source



code of the electronic mail received by the proper depository agent.

(4) If a request for a hearing is mailed, personally delivered, made by facsimile transmission, or made by electronic mail to a party or address other than the proper depository agent, the request is deemed to have been made as of the date of its receipt by the depository agent as evidenced by the agent's time stamp.

(5) If a request for a hearing is personally delivered to the proper depository agent, the request is deemed to have been made as of the date of its receipt as evidenced by the depository agent's time stamp.

(6) All requests for hearings are to clearly identify both the affected individual involved and the proposed action that is being contested.

(C) Computation of time deadlines.

Section 1.14 of the Revised Code controls the computing of time deadlines imposed by Chapter 119. of the Revised Code and Chapter 5101:6-50 of the Administrative Code. The time within which an act is required by law to be completed is computed by excluding the first day and including the last day. When the last day falls on a Saturday, Sunday, or legal holiday, the act may be completed on the next succeeding day that is not a Saturday, Sunday, or legal holiday. When the last day to perform an act that is required by law is to be performed in a public office and that public office is closed to the public for the entire day, the act may be performed on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

(D) Failure to request a hearing.

When an affected party fails to request a hearing or the request is not submitted timely, ODJFS will issue a final and binding order of adjudication adopting and ratifying any or all of the allegations contained in the original notice that will implement the proposed action.