



## Ohio Administrative Code

### Rule 5717-1-16 Hearings.

Effective: September 17, 2023

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(A) The purpose of hearings before the board is to allow for the presentation of new evidence.

Appeals will be decided upon the record developed before the lower tribunal unless a party requests a hearing and presents new evidence. The board, as required by statute or at its discretion, may schedule an appeal for hearing and issue notice thereof to the parties or their counsel of record.

(B) For good cause shown, hearings may be continued by the board. The granting of a continuance is within the sound discretion of the board. If, in the exercise of sound discretion, the board deems a hearing unnecessary, the hearing may be canceled.

(C) Requests for continuances shall be submitted, in writing, at least twenty-one days prior to the scheduled hearing date, unless otherwise permitted by the board. If a continuance is requested for the reason that counsel or a witness is scheduled to appear for hearing on the same date before the board or another tribunal, a copy of the tribunal's scheduling notice should be attached to the request.

(D) Before seeking a continuance of a scheduled hearing from the board, a party shall provide notice to all other parties, and attempt to obtain their consent. The party requesting a continuance shall advise this board in its request whether any party objects to its request. Any objection to a continuance must be submitted promptly, in writing. Absent good cause shown, no more than two continuances of a hearing will be granted.

(E) As a condition to any continuance that may be granted, the board may require the parties to supply a definite date for hearing..

(F) A party may waive its right to appear at a hearing. Where all parties have waived their right to a hearing, the board may proceed to decide the appeal upon the record. A party shall file such waiver as soon as possible, but not later than three days in advance of a scheduled hearing. If an appealing party waives their appearance, that party shall file a brief outlining their position. The brief shall be filed on or before the hearing date, unless an alternative date is permitted by the board.



(G) All hearings, except those on the small claims docket, shall proceed in similar manner to a civil action, with witnesses to be sworn and subject to cross-examination. The nature, scope, and length of examination of witnesses is within the discretion of the presiding attorney examiner or board member(s). Except in those cases on the small claims docket, non-attorneys may not make legal argument, examine witnesses, or undertake any other tasks at hearing that can be performed only by an attorney.

(H) All hearings before the board shall be open to the public. Hearings may be recorded, and such recordings shall be made available for examination at the board's office.

(I) Each party shall identify its witnesses to all parties and the board consistent with the period set forth in the applicable case management schedule established in rules 5717-1-07 and 5717-1-08 of the Administrative Code, unless otherwise ordered. A party's failure to comply with the board's disclosure rules may result in exclusion of that party's evidence. Each party shall provide copies of the documentary exhibits it plans to offer into evidence (reduced in size, if necessary) to all parties consistent with the period set forth in the applicable case management schedule, unless otherwise ordered. If the parties fail to file a witness and exhibit list with this board, the board may cancel the hearing and, if appropriate, establish a briefing schedule.

(J) The Ohio Rules of Evidence shall apply in merit hearings unless inconsistent with board rules, inconsistent with other binding law, or as justice so requires.