



Ohio Revised Code

Section 101.352 Request for appearance before joint committee regarding agency's reliance on principle of law or policy.

Effective: August 18, 2019

Legislation: Senate Bill 221 - 132nd General Assembly

If the joint committee on agency rule review becomes aware that an agency subject to its jurisdiction is relying upon a principle of law or policy that, under section 121.93 of the Revised Code, should have been supplanted by its restatement in a rule, the chairperson of the joint committee, in the chairperson's sole discretion, may request the agency to appear before the joint committee to address why, notwithstanding section 121.93 of the Revised Code, it is so relying. The request shall specify the time and place at which a designee of the agency is to appear before the joint committee to address, and to answer the joint committee's questions concerning, the agency's reliance. The date set for the appearance shall be not earlier than thirty days after the joint committee transmits the request to the agency. The joint committee shall transmit the request to the agency electronically. The joint committee also shall publish the request on its web site, as part of the relevant meeting agenda, and shall indicate in conjunction with the published request that any person is invited to appear before the joint committee when the agency appears to offer and make comments to the joint committee concerning the agency's reliance.

Upon receiving the request, the agency shall designate a suitable agency officer or employee to appear on behalf of the agency before the joint committee as directed in the request. The agency electronically shall notify the joint committee of the name, title, telephone number, and electronic mail address of the officer or employee who has been designated to appear before the joint committee in response to the request.

Upon appearing before the joint committee, the agency's designee shall address why the agency is relying upon a principle of law or policy that, notwithstanding section 121.93 of the Revised Code, has not been supplanted by its restatement in a rule. The members of the joint committee may question the agency's designee concerning the agency's reliance. Any person may offer and make comments to the joint committee concerning the agency's reliance.

After the appearance has concluded, the joint committee, by vote of a majority of its members, in



writing may recommend to the agency that it supplant the principle of law or policy that it is relying upon by its restatement in a rule. The joint committee shall support its recommendation with a brief rationale of why, under section 121.93 of the Revised Code, the principle of law or policy should be supplanted by its restatement in a rule. The joint committee shall transmit the recommendation electronically to the agency.

After receiving the recommendation from the joint committee, the agency shall commence the rule-making process as soon as it is reasonably feasible to do so, but not later than the date that is six months after the recommendation was received. The principle of law or policy as it is restated in a rule does not need to be wholly congruent with the supplanted principle of law or policy. The agency lawfully may improve or develop further the supplanted principle of law or policy as it is restated in a rule.

The agency may continue to rely upon the principle of law or policy, but only while it is complying with the preceding paragraph. The agency may not rely upon the principle of law or policy in advising with regard to or in determining the rights or liabilities of a person if the agency fails to commence the rule-making process by the deadline specified in the preceding paragraph, or if, after commencing the rule-making process, the agency neglects or abandons the rule-making process before it is completed.