

3772-21-01

**General provision.**

After the required notice and opportunity to respond, all hearings conducted under this chapter shall be in accordance with Chapter 119. of the Revised Code.

Effective:

R.C. 119.032 review dates:

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 3772.03  
Rule Amplifies: 3772.03, 3772.04, 3772.14

3772-21-03**Disciplinary hearings.**

- (A) If the commission concludes that disciplinary action should be taken against a licensee or applicant, the commission shall provide notice of the proposed action in the manner prescribed under Chapter 119. of the Revised Code.
- (B) Upon receipt of the notice described in paragraph (A) of this rule, the party may request a hearing in the manner provided under Chapter 119. of the Revised Code and this chapter. A hearing shall be scheduled by the commission in the manner described in Chapter 119. of the Revised Code.
- (C) If no hearing is requested under paragraph (B) of this rule, the commission may proceed to render a final order as described in paragraph (D) of rule 3772-21-08 of the Administrative Code.
- (D) A party may withdraw the request for hearing in writing at any time. Upon receipt of the withdrawal of the request for hearing, the commission may proceed to render a final order as described in paragraph (D) of rule 3772-21-08 of the Administrative Code.

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Rule Amplifies:	3772.03, 3772.04, 3772.14

3772-21-04

**Involuntary exclusion hearings.**

- (A) Upon notice and receipt of a request for hearing pursuant to section 3772.031 of the Revised Code, the commission shall schedule a hearing in the manner described in Chapter 119. of the Revised Code.
- (B) If no request for hearing is made pursuant to this rule, the commission may render a final order as described in paragraph (D) of rule 3772-21-08 of the Administrative Code and place the party on the list without a hearing.
- (C) A party may withdraw the request for hearing in writing at any time. Upon receipt of the withdrawal of the request for hearing, the commission may render a final order as described in paragraph (D) of rule 3772-21-08 of the Administrative Code and place the party on the list without a hearing.

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3772-21-05

**Appearances, participation by and representation of parties.**

(A) Any party may be represented by an attorney who is licensed in Ohio. The attorney shall represent the party at the party's own expense. All attorneys who appear in a representative capacity on behalf of a party must file with the commission, at its Columbus office, a written notice of appearance setting forth:

(1) The attorney's name, address, telephone number and bar number; and

(2) The name and address of the party represented.

(B) An attorney who has not filed an appearance may not address the hearing examiner or sign any briefs, motions or other writings filed with the commission in the matter.

(C) An attorney may only withdraw his or her appearance upon written notice to the commission or hearing examiner assigned.

(D) A natural person party may appear on his or her own behalf.

(E) A partnership may be represented by a partner provided the partner is authorized to do so.

(F) A limited liability company or corporation shall be represented by counsel.

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3772-21-06

**Hearing procedures.**

(A) The hearing examiner shall conduct the hearing in accordance with the requirements of Chapter 119. of the Revised Code and may:

- (1) Rule on objections made by the parties;
- (2) Determine the admissibility of the evidence presented;
- (3) Rule on motions made by the parties;
- (4) Permit opening statements and closing arguments;
- (5) Examine witnesses or ask questions of the parties; and
- (6) Make any other necessary determinations or rulings.

(B) Parties and the commission shall have the right to examine and cross-examine witnesses. All witnesses shall be sworn or shall affirm the truthfulness of their testimony.

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Rule Amplifies:	3772.03, 3772.04

3772-21-07**Continuances.**

- (A) Continuances may be ordered by the commission on its own motion or may be granted by the commission in its discretion.
- (B) Any party may make a motion to continue a hearing in writing. The motion shall be made at least five days prior to the date set for hearing.
- (C) A motion for continuance must be directed to the hearing examiner designated to preside over the hearing. The hearing examiner may grant or deny the motion in his or her sole discretion.

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Rule Amplifies:	3772.03, 3772.04

3772-21-08

**Reports, recommendations and orders.**

- (A) The hearing examiner shall issue to the commission, the party, and the party's attorney of record written findings of fact and conclusions of law and his or her recommendations pursuant to Chapter 119. of the Revised Code.
- (B) The parties may file written objections or comments with the commission to the proposed findings of fact, conclusions of law and recommendations issued by the hearing examiner within thirty days of receipt. The commission shall not issue a final order before that thirty day period lapses.
- (C) If no hearing is required under the provisions of Chapter 119. of the Revised Code and this chapter, the commission may render a written final order without a hearing.
- (D) Copies of the final commission order shall be served on the party and the party's attorney of record by methods prescribed in Chapter 119. of the Revised Code.
- (E) Any appeal of the commission's final order shall be made as prescribed by Chapter 119. of the Revised Code.

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Rule Amplifies: 3772.03, 3772.04

3772-21-09

**Settlements.**

(A) Nothing in this chapter shall be construed to limit the ability of a party and the commission from entering into a settlement agreement.

(B) The party or commission may propose settlement at any time.

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Rule Amplifies: 3772.03, 3772.04, 3772.14

3772-21-10**Subpoenas.**

(A) The commission may issue a subpoena to compel the attendance of witnesses or the production of evidence, including, but not limited to, books, records, correspondence, or other documents relating to any hearing conducted under this chapter.

(B) After a notice is received by the party and a hearing date is set by the commission, the party may request the commission to issue subpoenas. A party may request that the commission issue a subpoena by providing a written request to the commission at least eight days before the hearing. To be valid, the request shall identify the following:

(1) Case caption;

(2) The full legal name of the person to be served;

(3) Address of the person to be served, including street name and number;

(4) County of residence of the person to be served; and

(5) A request for the production of documents must describe in detail the specific documents and records that the witness is required to bring, if applicable.

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3772-21-11

**Prohibition on ex parte communications with the hearing examiner.**

- (A) Unless otherwise provided, no party, the commission or any agent or representative of either shall communicate directly or indirectly with the hearing examiner regarding any pending matter, except upon notice and opportunity for both the party and the commission to participate.
- (B) The prohibition on ex parte communications commences with the filing of a request for a hearing pursuant to this chapter.
- (C) Communications with the hearing examiner involving scheduling or uncontested procedural matters do not require notice or the opportunity for either the party or the commission to participate.

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