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## ADMINISTRATIVE PROCEDURE ACT ADJUDICATIONS

- Allows, unless another law applies, an agency conducting an adjudication under the Administrative Procedure Act (APA) to serve a document on a party to the adjudication through email, facsimile, traceable delivery service, or personal service.
- Specifies the date on which service of a document is complete when using one of the methods listed above.
- Requires certain notices and orders that must be served on a party in an APA adjudication to be provided to the party's attorney or other representative rather than requiring the notices be mailed as under former law.
- Specifies that an agency's rejection of an application for registration or renewal of a license is not effective until the 15<sup>th</sup> day after notice of the rejection is mailed to the licensee.

### Administrative Procedure Act adjudications

(R.C. 119.05, 119.06, and 119.07 with conforming changes in numerous other R.C. sections)

#### Service of adjudication documents

The act allows, unless another law applies, an agency conducting an adjudication under the Administrative Procedure Act (APA) – R.C. Chapter 119 – to serve a document on a party to the adjudication through any of the following methods:

- Email at the party's last known email address;
- Facsimile transmission at the party's facsimile number appearing in the agency's official records;
- Traceable delivery service at the party's last known physical address;
- Personal service.

Service of a document using a method listed above is complete on the following dates:

- For email, the date receipt of the document is relayed electronically to the agency either by a direct reply from the recipient or through electronic tracking software demonstrating that the recipient accessed the document.
- For facsimile transmission, the date indicated on the facsimile transmission confirmation page.
- For traceable delivery service, the delivery date indicated on the notice of completed delivery provided to the agency by the delivery service.
- For personal service, the date indicated on a document confirming physical delivery signed by either the intended recipient, an adult located at the intended recipient's address, or delivery personnel.

One's "last known address" is the mailing address or email address in an agency's official records. "Traceable delivery service" is any delivery services provided by the U.S. Postal Service or a domestic commercial delivery service that allows the sender to track a sent item's progress and provides notice of a completed delivery to the sender.

If an agency fails to complete service using a party's last known address or facsimile number, the agency may complete service using an alternative address or number. The agency must verify the alternative address or number as current before attempting service.

When an agency is unable to complete service using a method described above, the agency must publish a summary of the notice's substantive provisions in a newspaper of general circulation in the county where the party's last known address is located. Notice by publication is complete on the date of publication. An agency that completes service by publication must send a proof of publication affidavit to the party by ordinary mail at the party's last known address. The affidavit must include a copy of the publication.

An agency that accomplishes services by email, facsimile transmission, traceable delivery or personal service at an alternative address or facsimile number is not required to complete service by publication.

Formerly, unless another law applied, the APA required an agency to attempt service through registered or certified mail. When registered or certified mail was returned because the recipient failed to claim it, the agency had to attempt service through ordinary mail and obtain a certificate of mailing. If registered, certified, or ordinary mail was returned for failure of delivery, the agency was required to either make personal delivery or attempt service by publication in the manner described above. Former law did not allow service through email, facsimile, or domestic commercial delivery service.

### **Providing notices to attorneys**

The act requires an agency to provide copies of APA notices and orders to an affected party's attorney or other representative. Former law required the notices and orders be mailed to the attorney or representative.

### **Rejection of registration or renewal**

The act specifies that an agency's rejection of an application for registration or renewal of a license is not effective until the 15<sup>th</sup> day after notice of the rejection is mailed to the licensee. Former law set 15 days as a minimum number of days before the rejection was effective. Under continuing law, an agency that rejects an application for registration or renewal of a license generally must afford the rejected applicant a hearing when the applicant requests one. However, the following agencies are not required to grant a hearing to an applicant to whom a new license was refused because the applicant failed a licensing examination:

- The State Medical Board;
- State Chiropractic Board;
- The Architects Board;

- Ohio Landscape Architects Board;
- The Occupational Therapy, Physical Therapy, and Athletic Trainers Board.