
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.
- Increases, from 15 to 60, the maximum number of days within which an agency must hold an administrative hearing after a party to an adjudication requests one.
- 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 current law.
- Specifies that an agency's rejection of an application for registration or renewal of a license is not effective until the 15th day after notice of the rejection is mailed to the licensee.

Administrative Procedure Act adjudications

(R.C. 119.05, 119.06, 119.07, 3711.14, 3722.07, 4121.443, 4715.30, 4717.14, 4723.281, 4725.24, 4730.25, 4731.22, 4734.37, 4741.22, 4757.361, 4759.07, 4760.13, 4761.09, 4762.13, 4766.11, 4774.13, 4778.14, 4779.29, 5104.042, 5119.33, 5119.34, 5119.36, 5123.19, and 5165.87; with conforming changes in numerous other R.C. sections)

Service of adjudication documents

The bill 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.

Currently, unless another law applies, the APA requires an agency to attempt service through registered or certified mail. When registered or certified mail is returned because the recipient fails to claim it, the agency must attempt service through ordinary mail and obtain a certificate of mailing. If registered, certified, or ordinary mail is returned for failure of delivery, the agency either must make personal delivery or attempt service by publication in the manner described above. Current law does not allow service through email, facsimile, or domestic commercial delivery service.

Administrative hearings

Under continuing law, nonemergency APA adjudication orders are not valid unless the affected party receives notice and an opportunity for a hearing. Typically, an affected party must request a hearing within 30 days of receiving notice of the opportunity for one. When a party receives notice of the opportunity for hearing, but fails to request it within the allotted time, the agency may issue the adjudication order without the hearing.

The bill generally increases, from 15 to 60, the maximum number of days within which an agency must hold an administrative hearing after a party to an adjudication requests it. However, where current law allows an agency to order a license suspension before a hearing and specifies a shorter timeframe for the agency to hold the hearing after the affected party requests it, the bill retains the shorter timeframe. License suspension orders that allow post-suspension hearings in which the bill retains the shorter timeframe include all of the following:

- An order by the State Medical Board suspending a limited permit to practice in a Board regulated field or a license or certificate to practice as a physician, physician assistant, dietician, anesthesiologist assistant, radiologist assistant, respiratory care provider, oriental medicine practitioner, massage therapist, or genetic counselor.
- An order by the State Chiropractic Board suspending a license to practice chiropractic or a certificate to practice acupuncture;
- An order by the Director of Health suspending a license to operate a hospital or a maternity and newborn care facility;
- An order by the Department of Mental Health and Addiction Services suspending a license to operate a hospital for mentally ill persons or a residential facility or a certificate to provide community mental health services or addiction services;
- An order by the Department of Developmental Disabilities to operate a residential facility;
- An order by the State Board of Emergency Medical, Fire, and Transportation Services suspending a medical transportation license;
- An order by the Occupational Therapy, Physical Therapy, and Athletic Trainers Board suspending a license to practice orthotics, pedorthics, or prosthetics;
- An order by the Department of Medicaid suspending Medicaid coverage of nursing facility services;
- An order by the Administrator of Workers' Compensation suspending a provider's participation in the Health Partnership Program;
- An order suspending any of the licenses issued by the following boards: the State Dental Board; the Board of Nursing; the Board of Embalmers and Funeral Directors; the State Vision Professionals Board; the State Veterinary Medical Licensing Board; or the Counselor, Social Worker, and Marriage and Family Therapist Board.

With respect to these agencies, continuing law requires most (but not all) to hold a post-suspension hearing within 15 days after a party requests the hearing. A suspension order without a prior hearing also typically requires clear and convincing evidence of a danger to an identifiable group of individuals or to the public health.

Providing notices to attorneys

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

Rejection of registration or renewal

The bill specifies that an agency's rejection of an application for registration or renewal of a license is not effective until the 15th day after notice of the rejection is mailed to the licensee. Current law sets 15 days as a minimum number of days before the rejection is 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.