DIVISION 003

MODEL RULES OF PROCEDURE FOR CONTESTED CASES

Office of Administrative Hearings

137-003-0640
Immediate Review by Chief Administrative Law Judge
(1) Before issuance of a proposed order or before issuance of a final order if the administrative law judge has authority to issue a final order, the agency or a party may seek immediate review by the Chief Administrative Law Judge of the administrative law judge's decision on any of the following:
(a) A ruling on a motion to quash a subpoena under OAR 137-003-0585;
(b) A ruling refusing to consider as evidence judicially or officially noticed facts presented by the agency under OAR 137-003-0615 that is not rebutted by a party;
(c) A ruling on the admission or exclusion of evidence based on a claim of the existence or non-existence of a privilege;
(2) The agency or a party may file a response to the request for immediate review. The response shall be in writing and shall be filed with the Chief Administrative Law Judge within five calendar days after receipt of the request for review with service on the administrative law judge, the agency representative, if any, and any other party.
(3) The mere filing or pendency of a request for the Chief Administrative Law Judge's immediate review, even if uncontested, does not alter or extend any time limit or deadline established by statute, rule, or order.
(4) The Chief Administrative Law Judge shall rule on all requests for immediate review in writing.
(5) The request and ruling shall be made part of the record of the proceeding.
(6) The Chief Administrative Law Judge may designate in writing a person to exercise his or her responsibilities under this rule.
(7) The agency may by rule elect to provide for immediate review by the agency instead of the Chief Administrative Law Judge. The agency may specify that the rule applies only to a category of cases or to all cases. Any rule adopted pursuant to this subsection must be adopted and in effect prior to issuance of the agency's notice of proposed action.
Stat. Auth.: ORS 183.341
Stats. Implemented: ORS 183.341; ORS 183.413; ORS 183.415; ORS 183.630