

CODE OF CONDUCT FOR NON-ATTORNEY REPRESENTATIVES AT ADMINISTRATIVE HEARINGS

June 1, 2011

Amended October 1, 2011

Standards of Conduct Generally

1. When representing a party or agency in a contested case, the representative is expected to act professionally, with integrity, and in an ethical manner, in accordance with the “Code of Conduct for Non-Attorney Representatives at Administrative Hearings.”
2. A representative is expected to treat all parties, agency representatives, and Administrative Law Judges and their staff, courteously and fairly.
3. A representative may not offer compensation or anything of value to the Administrative Law Judge or agency decisionmaker in an attempt to influence the decision in a case.
4. These standards of conduct apply at every stage of a contested case.

Hearing Conduct

1. A representative may not suppress any evidence that the representative has a legal obligation to reveal or produce.
2. The representative may present evidence; question witnesses, address legal issues to the extent permitted by law, and perform other functions that foster development of a full and fair record in the proceeding so that the agency can take the correct action.

Scope of Representation

1. A representative must observe the limits placed by statutes and rules on his or her authority and conduct.
2. A representative may not give legal advice to the agency or to a party.
3. A representative must communicate proposed offers of settlement to the party. A representative of an agency must communicate proposed offers of settlement to the agency employee who has authority to accept or reject settlement offers.

Competence and Diligence

1. A representative should be competent to represent the party or agency, and knowledgeable of the facts of the case, statutes and rules that apply to the case.

2. The representative should know the agency and model rules of procedure applicable to the case.
3. The representative should be adequately prepared for the hearing and attend to matters in a timely manner, including submission of evidence and providing discovery to other parties.

Communicating with a Party

1. A representative may not communicate directly on the subject of the representation with a party or agency that the representative knows to be represented by a lawyer on that subject unless the representative has the prior consent of the lawyer or is authorized by law to do so.
2. A representative must not give legal advice to a person who is not represented, other than the advice to secure representation.
3. A representative or agency employee may not discourage a person from seeking legal advice or representation, or from exercising the right to a hearing.
4. A representative communicating with a person, agency or another representative must disclose who he or she is representing.

Contact with Officials and Ex Parte Contact

1. If a representative communicates in writing with an administrative law judge before whom a contested case proceeding is pending about the proceeding, the representative must immediately send a copy of the written communication to all parties or their representatives, and to the agency.
2. A representative must give advance notice to all parties or their representatives, and the agency, of any oral communications with an administrative law judge regarding a contested case proceeding. The other parties, their representatives, and the agency must be given the opportunity to participate in the communication. This does not include requests for hearing postponements.