

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

**3301-73-13 Subpoenas.**

- (A) Paragraphs (B) to (I) of rule 3301-73-13 of the Administrative Code apply only for purposes of an administrative hearing conducted pursuant to Chapter 119. Of the Revised Code.
- (B) Except as provided in paragraph (I) of this rule, upon written request of any party, the superintendent ~~shall~~ will issue subpoenas to compel the attendance and testimony of witnesses and production of information, in whatever form maintained, or tangible objects which may be or may lead to relevant evidence. Each subpoena ~~shall~~ will indicate on whose behalf the witness is required to testify and shall include contact information for the requesting party and/or the attorney for the requesting party. Signed subpoenas shall be mailed to the requesting party. Each party shall be responsible for service of subpoenas requested.
- (C) Subpoena requests shall specify the name and address of the person to be served and the date, time and location at which they are to appear at the administrative hearing. Subpoena requests for minors shall include the name of a parent, guardian, or custodian of the minor.
- If the subpoena includes a duces tecum request, the specific documents or tangible objects to be produced at the administrative hearing shall be listed in the request.
- (D) Subpoena requests are to be filed with the department at least fourteen days in advance of the requested date of compliance and in accordance with rule 3301-73-06 of the Administrative Code. In the event that the number of subpoenas requested appears to be unreasonable, the hearing officer may therefore require a showing of necessity, and, in the absence of such showing, may limit the number of subpoenas. Absent such a limitation, subpoenas shall be issued within seven days of request except for subpoena requests that fail to comply with rule 3301-73-06 or paragraphs (B) to (I) of rule 3301-73-13 of the Administrative Code. Failure to issue subpoenas within this time may constitute sufficient grounds for the granting of a continuance.
- (E) The hearing officer may request on his/her own authority or at the request of a party the superintendent to issue subpoenas for purposes of the hearing to compel the attendance and testimony of witnesses and production of information, in whatever form maintained, or tangible objects which may be or may lead to relevant evidence.
- (F) Upon motion and for good cause, the hearing officer may order any subpoena be quashed.
- (G) Witnesses ~~may~~ will not be subpoenaed to pre-hearing conferences as detailed in rule 3301-73-12 of the Administrative Code.
- (H) Respondents do not have the right to request the superintendent to issue subpoenas ~~during an investigation conducted for the department's records that are confidential~~ under section 3319.311 of the Revised Code. - Respondents do not have the right to request the superintendent to issue subpoenas to compel an employee of the department's attendance at a hearing for the purpose of testifying about the department's records that are confidential under section 3319.311 of the Revised Code.

**Commented [DM1]:** Changes made throughout the rule according to SB 9, 134th GA, to remove restrictive regulatory language.

**Commented [DM2]:** Combined H and I for clarity and to preserve the confidentiality of the department's records.

~~(I) Respondents do not have the right to request the superintendent to issue subpoenas for the department's records that are confidential under section 3319.311 of the Revised Code.~~

~~(I)~~ Respondents do not have the right to request the superintendent to issue subpoenas to compel the respondent's own attendance at a hearing.