

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

3301-73-20 Reports and recommendations.

(A) Within ~~sixty~~ ~~thirty~~ days following both the close of the record of an administrative hearing conducted pursuant to Chapter 119, and section 3319.311 of the Revised Code and of receiving the transcript from the hearing, the hearing officer ~~will shall~~ submit a written report setting forth a summary of proceedings, proposed findings of fact and conclusions of law, and a recommendation of the action to be taken by the state board. The hearing record ~~will shall~~ not be considered closed until such time as the record is complete, as determined by the hearing officer.

Commented [DM1]: Extended the timeframe from thirty days to sixty days to allow more flexibility for hearing officers and to more closely align with standards of other agencies.

Commented [DM2]: Changes made throughout the rule according to SB 9, 134th GA, to remove restrictive regulatory language.

Any requests by the hearing officer to extend the time to file the report ~~will must~~ be submitted in writing to the superintendent prior to the ~~sixtieth~~ ~~thirtieth~~ day and ~~will shall~~ include an explanation why such extension is necessary. Such request ~~will shall~~ be decided by the superintendent.

(B) The ~~original~~ written report ~~will shall~~ be filed with the department. The department will serve the parties as provided under Chapter 119, of the Revised Code.

Commented [DM3]: Removed due to the Department using electronic written reports. This will provide for quicker and easier filing for parties to the case.

(C) Pursuant to section 119.09 of the Revised Code, ~~either~~ a party may file written objections to the report and recommendation within ten days of receipt of the hearing officer's report and recommendation. Filing of objections ~~will comply shall be in compliance~~ with rule 3301-73-06 of the Administrative Code. Only those objections filed in a timely manner ~~will shall~~ be considered by the state board. ~~Either~~ A party may file a motion to strike in response to the submission of objections. ~~A motion to strike must be filed within ten days from the date of service of the objections. A response to the motion to strike by the parties may not be filed and will not be considered by the hearing officer.~~ If a motion to strike is filed, the hearing officer ~~will shall~~ make a recommendation to the state board on the motion to strike.

Commented [DM4]: Modified to "either party" to match the prior language in Rule 3301-73-27(A)(6), as this language is being removed for consolidation purposes.

Commented [DM5]: Included a timeline to submit a motion to strike, as this language is being removed from Rule 3301-73-27(A)(6) for consolidation purposes.

(D) Prior to the tenth day after receipt of the report and recommendation pursuant to section 119.09 of the Revised Code ~~or objections filed by either party~~ and upon written request, the superintendent may grant ~~an~~ extensions of time within which to file objections. The extension ~~will shall~~ not be for more than fourteen days.

Commented [DM6]: Modified for clarification purposes, and included language that was removed from Rule 3301-73-27(A)(7) for consolidation purposes.

(E) The state board ~~will shall~~ consider the hearing officer's report and recommendation and any objections thereto at the next possible regularly scheduled meeting, if the state board's agenda permits, after the time for filing objections, a motion to strike, and a recommendation on the motion to strike has passed. The state board may decide to accept, reject, or modify the report and recommendation or remand the matter to the hearing officer. The state board ~~will shall~~ memorialize the decision on the report and recommendation through a written resolution and/or order.