

- (A) Within thirty days following the close of an adjudication hearing conducted pursuant to Chapter 119. of the Revised Code, the ~~attorney~~ hearing examiner shall submit a written report setting forth proposed findings of fact and conclusions of law and a recommendation of the action to be taken by the board. The hearing shall not be considered closed until such time as the record is complete, as determined by the ~~attorney~~ hearing examiner.
- (B) A copy of such written report shall be issued to ~~the~~ each representatives of record as ~~identified in rule 4731-13-01 of the Administrative Code.~~ The copy issued to the respondent's representative of record shall be accompanied by notice of the date the report and recommendation is to be considered by the board.
- (C) ~~The respondent's~~ Either representative of record may, within ten days of ~~his~~ receipt of the ~~attorney~~ hearing examiner's report and recommendation, file written objections to the report and recommendation. Only those objections filed in a timely manner shall be considered by the board before approving, modifying, or disapproving the ~~attorney~~ hearing examiner's recommendation, unless otherwise determined by the board.
- (D) Upon written request, the board may grant extensions of the time within which to file objections to the report and recommendation. In the event that the board is not in session, the president of the board may grant such extensions.
- (E) Unless otherwise determined by the board based upon written motion of a party, the ~~The~~ board shall consider the ~~attorney~~ hearing examiner's report and recommendation and any objections thereto at its next regularly scheduled meeting after the time for filing objections has passed. At that time, the board may do any or all of the following: order additional testimony to be taken; ~~or~~ permit the introduction of further documentary evidence; ~~;~~ or act upon the report and recommendation. For purposes of taking such additional testimony or documentary evidence, the board may remand to the ~~attorney~~ hearing examiner.
- (F) Any motion to reopen the hearing record for purposes of introducing newly discovered material evidence that ~~which~~, with reasonable diligence, could not have been discovered and produced at the hearing shall be ~~made~~ filed in the manner provided in rules 4731-13-07 and 4731-13-08 of the Administrative Code. Such motion to reopen shall be filed not later than ~~ten~~ fourteen days prior to the scheduled consideration by the board of the ~~attorney~~ hearing examiner's report and recommendation, and any objections thereto unless the newly discovered material evidence, with reasonable diligence, could not have been discovered earlier than fourteen days prior to the scheduled consideration by the board. The other party shall have an opportunity to file, not later than seven days prior to the scheduled consideration by the board of the hearing examiner's report and recommendation, a

memorandum contra to said motion. If such motion is filed prior to the issuance of the attorney hearing examiner's report and recommendation, the attorney hearing examiner shall rule on the motion. If such motion is filed subsequent to the issuance of the attorney hearing examiner's report and recommendation, the board shall rule upon the motion.

Any submission of documentation or evidence received by the board after the close of the record and prior to the date of consideration of the hearing examiner's report and recommendation by the board shall be deemed a motion to reopen the record pursuant to this rule. If such motion is filed prior to the issuance of the hearing examiner's report and recommendation, the hearing examiner shall rule on the motion. If such motion is filed subsequent to the issuance of the hearing examiner's report and recommendation, the board shall rule on the motion. All submitted materials must be accompanied by an affidavit from the moving party that sets forth how the evidence is material, how the evidence is newly discovered, and why it could not have been produced at hearing. The affidavit must also show that the party made a reasonably diligent effort to obtain the material prior to hearing. Failure to comply with the requirements of this rule shall result in the exclusion of the submitted material unless the moving party shows good cause and the board votes to admit the document or evidence.

- (G) Without leave of the board, ~~the respondent or any representative of record~~ no party shall ~~not~~ be permitted to address the board at the time of consideration of the ~~attorney~~ hearing examiner's report and recommendation. Any request for such leave shall be filed by motion no less than five days prior to the date the report and recommendation is to be considered by the board. No such leave shall be granted unless the opposing representative of record has been actually notified of the request ~~and given opportunity to respond, unless otherwise determined by the board.~~
- (H) If a request to address the board is granted, the opposing ~~representative~~ party may also address the board.

Effective: 02/28/2004

R.C. 119.032 review dates: 11/17/2003 and 03/25/2007

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Certification

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Date

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