

TO BE RESCINDED

173-2-09

Hearings on de-designation.

- (A) Notification: In accordance with Chapter 119. of the Revised Code, ODA shall provide a written notice and an opportunity for a hearing to any AAA proposed for de-designation. ODA shall deliver the notice by registered mail, with a return receipt requested. In the notice, ODA shall include the charges or other reasons for the proposed de-designation, the law or rule directly involved, and a statement informing the AAA that it is entitled to a hearing if it requests one in fewer than thirty days after ODA mails the notice. In the notice, ODA shall also inform the AAA that, at the hearing, it may make an appearance through its attorney or through any other representative of the AAA. In lieu of an appearance (or in addition to an appearance), it may present its position, arguments, and contentions in writing. Additionally, in the notice, ODA shall inform the AAA that, at the hearing, the AAA may present evidence and examine witnesses appearing for or against the AAA.
- (B) Scheduling a hearing: If an AAA requests a hearing under this rule, ODA shall immediately set the date, time, and place for the hearing, then notify the agency of the date, time and place for the hearing. ODA shall set the date between seven and fifteen days after the AAA requests the hearing, unless both ODA and the AAA agree to another date.
- (C) Hearing officer: ODA shall engage the services of an attorney licensed in the state of Ohio to serve as the hearing officer and conduct the hearing requested by the AAA.
- (D) Hearing officer's report and recommendations: The hearing officer shall submit a written report to ODA that sets forth his/her findings-of-fact and conclusions-of-law, as well as any recommendation for ODA to take. ODA shall deliver a copy of the officer's report and recommendation to the AAA (or its attorney) by registered mail, with a return receipt requested, in fewer than five days after it receives the officer's report and recommendation.
- (E) Objection to the report and recommendation: The AAA may, in fewer than ten days after it receives the hearing officer's report and recommendation, file with ODA its written objection to the report and recommendation. The AAA may, in accordance with section 305(a)(5)(C)(i)(IV) of Older Americans Act, include with its objections, statements in support of the AAA from service providers, consumers, and other AAAs. ODA shall consider the AAA's objections and any statements of support before approving, modifying, or disapproving the recommendation.
- (F) Final decision: ODA shall not approve, modify, or disapprove a recommendation of the hearing officer until ten days have passed since the AAA received the report and recommendation. No recommendation by a hearing officer is final until it is

confirmed and approved in writing by the ODA's director. If the director modifies or disapproves the hearing officer's recommendation, the director shall include a statement of the reasons for the modification or disapproval in the final, written decision to the AAA. The director shall put the final decision in writing and shall deliver it to the AAA by certified mail, with a return receipt requested. The director shall send an accompanying statement that outlines the time and method by which the AAA may appeal the director's decision.

- (G) Further appeal: An AAA may appeal the director's final decision to the Franklin county court of common pleas under section 119.12 of the Revised Code and/or to the administration of aging under section 305 of the Older Americans Act.

Effective:

R.C. 119.032 review dates: 06/10/2014

Certification

Date

Promulgated Under:

119.03

Statutory Authority:

173.01, 173.011, 173.02; Section 306(f) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. 1321.11 (October 1, 2013 edition)

Rule Amplifies:

173.01, 173.011; 45 C.F.R. 1321.11, 1321.35 (October 1, 2013 edition)

Prior Effective Dates:

As 173:1-2-06 and 173:1-2-07: 10/13/1989 (Emer.), 02/26/1990 (Emer.), 08/24/1990, As 173-2-05: 05/15/2000, 05/16/2005, 07/12/2007. As 173-2-09: 06/11/2009.