

4906-2-22**Motions to compel discovery.**

(A) Any party, upon reasonable notice to all other parties and any persons affected thereby, may move for an order compelling discovery, with respect to:

(1) Any failure of a party to answer an interrogatory served under rule 4906-2-17 of the Administrative Code.

(2) Any failure of a party to produce a document or tangible thing or permit entry upon land or other property as requested under rule 4906-2-19 of the Administrative Code.

(3) Any failure of a deponent to appear or to answer a question propounded under rule 4906-2-18 of the Administrative Code.

(4) Any other failure to answer or respond to a discovery request made under rules 4906-2-17 to 4906-2-20 of the Administrative Code.

(B) For purposes of this rule, an evasive or incomplete answer shall be treated as a failure to answer.

(C) No motion to compel discovery shall be filed under this rule until the party seeking discovery has exhausted all other reasonable means of resolving any differences with the party or person from whom discovery is sought. A motion to compel discovery shall be accompanied by:

(1) A memorandum in support, setting forth:

(a) The specific basis of the motion, and citations of any authorities relied upon.

(b) A brief explanation of how the information sought is relevant to the pending proceeding.

(c) Responses to any objections raised by the party or person from whom discovery is sought.

(2) Copies of any specific discovery requests which are the subject of the motion to compel, and copies of any responses or objections thereto.

(3) An affidavit of counsel, or of the party seeking to compel discovery if such party is not represented by counsel, setting forth the efforts which have been made to resolve any differences with the party or person from whom discovery is sought.

(D) The board or the administrative law judge may grant or deny the motion in whole or in part. If the motion is denied in whole or in part, the board or the administrative law judge may issue such protective order as would be appropriate under rule

4906-2-21 of the Administrative Code.

(E) Any order of the administrative law judge granting a motion to compel discovery in whole or in part may be appealed to the board in accordance with rule 4906-2-29 of the Administrative Code. If no application for review is filed within the time limit set forth in that rule, the order of the administrative law judge becomes the order of the board.

(F) If any party or person disobeys an order of the board compelling discovery, the board may:

(1) Seek appropriate judicial relief against the disobedient person or party under section 4903.04 of the Revised Code.

(2) Prohibit the disobedient party from further participation in the pending proceeding.

(3) Prohibit the disobedient party from supporting or opposing designated claims or defenses, or from introducing evidence or conducting cross-examination on designated matters.

(4) Dismiss the pending proceeding if such proceeding was initiated by an application or petition, unless such a dismissal would unjustly prejudice any other party.

(5) Take such other action as the board considers appropriate.

Replaces: part of 4906-7-07

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

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Statutory Authority: 4906.03  
Rule Amplifies: 4903.06, 4903.082, 4906.03, 4906.12  
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