

DESIGNATION OF PERSONS AUTHORIZED TO PERFORM SPECIFIED DUTIES OF THE CHIEF ADMINISTRATIVE LAW JUDGE

AUTHORITY AND BACKGROUND

1. Requests for Reassignment of Administrative Law Judge.

ORS 183.645 allows any party to a contested case, including an agency, to file a written request with the Chief Administrative Law Judge to assign the case to a different administrative law judge.

ORS 183.645 authorizes the Chief Administrative Law Judge to establish rules of procedure governing such requests. Pursuant to that authority, OAR 137-003-0501(8) and OAR 471-060-0005(3), authorize the Chief Administrative Law Judge to designate another person to rule on requests to assign a case to a different administrative law judge.

2. Requests for Review of Discovery Order.

Pursuant to OAR 137-003-0568(7), a party or agency who is dissatisfied with a discovery order issued by an administrative law judge may, within 10 days after the order is issued, ask for immediate review of the order by the Chief Administrative Law Judge. OAR 137-003-0568(8) authorizes the Chief Administrative Law Judge to designate another person to perform this duty.

3. Requests for Review of: Rulings on Motions to Quash; Rulings Refusing to Consider Judicially or Officially Noticed Facts; Rulings on Admission or Exclusion of Evidence based on Claim of Privilege

Pursuant to OAR 137-003-0640, prior to the issuance of a proposed or final order by an administrative law judge, a party or agency may seek immediate review of an administrative law judge's rulings on any of the following issues:

- A ruling on a motion to quash a subpoena under OAR 137-003-0585;
- A ruling refusing to consider as evidence judicially or officially noticed facts presented by the agency under OAR 137-003-0615 that is not rebutted by a party;
- A ruling on the admission or exclusion of evidence based on a claim of the existence or non-existence of a privilege.

Any other party to the case, or the agency, may file a response to such a request within five days after the request is filed. OAR 137-003-0640(7) authorizes the Chief Administrative Law Judge to designate another person to perform this duty.

4. Review of Final Orders in Special Education Hearings

The Office of Administrative Hearings (OAH) has entered into an interagency agreement with the Oregon Department of Education, whereby the OAH has agreed to provide administrative law judges (ALJs) to conduct special education hearings consistent with the Individuals with Disabilities Education Act of 2004 (IDEA) and ORS 343.165. Pursuant to that agreement, ALJs must submit all final orders to the Chief Administrative Law Judge, or her designee, for review prior to issuance.

DESIGNATION

The Chief Administrative Law Judge hereby designates all Presiding Administrative Law Judges with the Office of Administrative Hearings to perform the duties described above. All such duties will be assigned, whenever practicable, to the Presiding Administrative Law Judge responsible for the program which is the subject of the contested case hearing.

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