NOTICE OF PERMANENT RULE

Building Codes Division

Department of Consumer and Business Services

Representation by Authorized Officer or Employee at Contested Case Hearings

Purpose of the rule:

The division's current rules did not include all the types of hearings that contested case representatives have the necessary skills to handle. The current rule also did not mirror the Department of Justice's guidance, so it has been amended to align with other agencies in the state.

Citation:

Amends: OAR 918-001-0025

This rule is effective Jan. 1, 2026.

Background:

The division received guidance from the Oregon Department of Justice to update and clarify which hearings the division's contested case representatives may handle. The proposed amendments expanded the rule to include hearings involving statutes for limited energy licensing and licensing disqualification. This change allowed contested case representatives to handle these types of hearings without obtaining prior written consent from the attorney general or deputy attorney general. A rulemaking hearing was held on Dec. 16, 2025.

Summary:

The amendments clarify the types of hearings the division's contested case representatives may handle without prior authorization from the Oregon Attorney General. The amendments include statutes involving limited energy licensing and license disqualification as types of hearings that do not need prior written consent from the Attorney General.

Contact:

If you have questions or need further information, contact Ian Paik, policy analyst, by email at ian.paik@dcbs.oregon.gov.

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PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 918
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
BUILDING CODES DIVISION

FILING CAPTION: Representation by Authorized Officer or Employee at Contested Case Hearings Rulemaking.

EFFECTIVE DATE: 01/01/2026

AGENCY APPROVED DATE: 12/23/2025

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AMEND: 918-001-0025

NOTICE FILED DATE: 11/12/2025

RULE SUMMARY: The amendments clarify the types of hearings the division's contested case representatives may handle without prior authorization from the Oregon Attorney General. The amendments include statutes involving limited energy licensing and license disqualification as types of hearings that do not need prior written consent from the Attorney General.

CHANGES TO RULE:

918-001-0025
Division Representation by Authorized Officer or Employee at Contested Case Hearings ¶

(1) ~~A~~Subject to the approval of the Attorney General, an employee of the Building Codes Division authorized by the Administrator may appear on behalf of the division, pursuant to ORS 183.452, at the following types of contested case hearings:¶
(a) Civil penalty hearings;¶
(b) Hearings held on appeals made to the division under ORS 479.853 by persons aggrieved by a decision made upon inspection authority under ORS 455.148 to 455.150 or 479.510 to 479.~~860~~945 of an electrical product or electrical installation;¶
(c) License and certification denial hearings under ORS 455.117 and the rules adopted thereunder, and ORS 455.125 and 455.129; and¶
(d) License discipline hearings ~~under ORS 455.125 or 455.129,~~ for cases involving conditioning of a license or certification, ~~or suspensions of up to one year.¶~~
~~(2) In all other contested case hearings officers or employees of the division may appear on behalf of the divi~~license disqualifications, or suspensions ~~only if prior written consent is obtained from the Attorney General or Deputy Attorney General~~f up to one year under ORS 455.125, 455.127, or 455.129.¶
(~~3~~2) The administrative law judge shall not allow a division representative appearing under section (1) or (2) of this rule to present legal argument as defined in this rule.¶
(a) "Legal Argument" includes arguments on:¶
(A) The jurisdiction of the division to hear the contested case;¶
(B) The constitutionality of a statute or rule or the application of a constitutional requirement to a division;¶
(C) The application of court precedent to the facts of the particular contested case proceeding.¶

(b) "Legal Argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:¶
(A) The application of the statutes or rules to the facts in the contested case;¶
(B) Comparison of prior actions of the division in handling similar situations;¶
(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;¶
(D) The admissibility of evidence; and¶
(E) The correctness of procedures being followed in the contested case hearing.¶
(43) If the administrative law judge determines that statements or objections made by the division representative appearing under section (1) or (2) involve legal argument as defined in this rule, the administrative law judge shall provide reasonable opportunity for the division representative to consult the Attorney General and permit the Attorney General to present argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.
Statutory/Other Authority: ORS 183.450
Statutes/Other Implemented: ORS 183.452