



Oregon

John A. Kitzhaber MD, Governor

OFFICE OF ADMINISTRATIVE HEARINGS

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Subpoena Information

A subpoena commands a person to appear and testify at a hearing. A subpoena duces tecum commands a person to appear and testify and also requires the person to bring documents or other physical evidence to the hearing. Any party may request a subpoena be issued if the witness is relevant to an issue within the scope of the hearing. A subpoena issued on behalf of a party must be properly served on the person sought to testify to be enforceable. The party requesting the subpoena has the responsibility to serve the subpoena.

A witness appearing pursuant to a subpoena, other than a party or officer or employee of the agency, is to receive a fee and mileage costs prescribed by law. ORS 183.440(1). Currently, fees are \$5 per day and 8 cents per mile for travel to and from the hearing. ORS 44.415(2). The party requesting the subpoena is responsible for payment of witness fees.

Service of a Subpoena

Best practice is to personally serve the subpoena on the witness. Service by mail may be sufficient under certain circumstance but generally must be done well in advance, with the agreement of the person being subpoenaed and accomplished by certified or registered mail. ORCP 55D.

The person serving the subpoena must either be a party or over 18. ORCP 55D.

Service shall be made by delivering a copy of the subpoena to the witness and giving or offering the fees for travel to and from the hearing and at least the first day's attendance fee. Service must be made so as to allow a reasonable time for preparation and travel time to the hearing. ORCP 55D.

The person serving the subpoena must complete the certificate of service at the bottom of the subpoena. Once served, a copy of the subpoena with the completed certificate should be retained and brought to the hearing. It may be necessary to offer a copy of the subpoena showing proof of service to the administrative law judge at the hearing.

If you have further questions, please contact the Administrative Law Judge assigned to your contested case hearing.