



PERMANENT ADMINISTRATIVE ORDER

DMV 6-2026

CHAPTER 735

DEPARTMENT OF TRANSPORTATION

DRIVER AND MOTOR VEHICLE SERVICES DIVISION

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FILING CAPTION: DMV Lay Representation at Contested Case Hearings

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AMEND: 735-001-0040

RULE TITLE: DMV Representation at Contested Case Hearings

NOTICE FILED DATE: 01/21/2026

RULE SUMMARY: DMV proposes to amend this rule to align it with a Department of Justice approved format and text. DMV is also amending the rule to update the types of contested cases where DMV may use an agency (lay) representative, as approved by DOJ.

RULE TEXT:

(1) Subject to periodic review and reauthorization by the Attorney General, an officer or employee of DMV is authorized to appear on behalf of DMV in the following types of contested case hearings conducted by an Administrative Law Judge assigned from the Office of Administrative Hearings:

- (a) Suspension, revocation and cancellation of driving privileges;
- (b) Non-issuance of driver licenses and identification cards;
- (c) Suspension or cancellation of identification cards;
- (d) Suspension, revocation, cancellation, probation and denial of vehicle dealer certificates;
- (e) Suspension, revocation, cancellation and denial of dismantler certificates;
- (f) Suspension, revocation, denial and refusal to issue or renew a towing company certificate;
- (g) Revocation and denial of a vehicle transporter certificate;
- (h) Civil penalties assessed on unlicensed dealers and on licensed dealers who violate the laws and rules relating to the sale of vehicles under the authority of ORS 822.009 and OAR chapter 735, division 150;
- (i) Civil penalties for violations related to dismantlers assessed under authority of ORS 822.137 and OAR chapter 735, division 152;
- (j) Cancellation of vehicle title and registration under authority of ORS 809.090 and 809.095;
- (k) Refusal to renew motor vehicle registration related to toll enforcement under the authority of ORS 809.100, 381.312 and 383.035;
- (l) Implied consent cases under ORS 813.410 and OAR 735, division 90;
- (m) Denial, suspension or revocation of a commercial driving school certificate; and
- (n) Denial, suspension or revocation of a commercial driver training instructor certificate.

(2) The administrative law judge shall not allow an agency representative appearing under section (1) of this rule to present legal argument as defined in this rule.

(a) "Legal Argument" includes arguments on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(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 agency 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.

(3) If the administrative law judge determines that statements or objections made by an agency representative appearing under section (1) involve legal argument as defined in this rule, the administrative law judge shall provide reasonable opportunity for the agency 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.

(4) An agency representative appearing under section (1) must read and be familiar with the most recently published Code of Conduct for Non-Attorney Representatives at Administrative Hearings, which is maintained by the Oregon Department of Justice and available on its website at <http://www.doj.state.or.us>.

STATUTORY/OTHER AUTHORITY: ORS 183.415, 183.450, 183.452, 184.619, 802.010

STATUTES/OTHER IMPLEMENTED: ORS 183.450, 183.452