

OFFICE OF ATTORNEY GENERAL
Department of Law
Office of Administrative Hearings
(Amendment)

40 KAR 5:010. Hearing officer required training.

RELATES TO: KRS 13B.030(4)

STATUTORY AUTHORITY: KRS 13B.030(4)

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary to comply with KRS 13B.030(4) which requires the office to establish by administrative regulation, minimum standards concerning length of training, course content, and instructor qualifications for initial training and continuing education of hearing officers. The function of this administrative regulation establishes education requirements for hearing officers.

Section 1. Definitions.

- (1) "Agency" is defined by KRS 13B.010(1).
- (2) "Approved training" means initial instruction or continuing education that has been approved by the office in accordance with this administrative regulation.
- (3) "Credit" means a unit equal to one (1) instructional hour used for measuring initial training requirements and continuing education requirements.
- (4) "Educational year" means the reporting period for mandatory continuing education requirements beginning on July 1 of each year and ending on June 30 of the successive year for which satisfaction of the continuing education training requirements is being calculated.
- (5) "Hearing officer" is defined by KRS 13B.010(5).
- (6) "Instructional hour" means fifty (50) minutes of instruction. The instruction can be presented in person or by other technological transmission methods including video recording, DVD, audio recording, CD-ROM, computer online services, internet live-stream, internet video-on-demand service, or other appropriate technology. The instruction can be live or pre-recorded.
- (7) "Office" is defined by KRS 13B.010(6).
- (8) "Sponsor" means the person or entity presenting the training course. The sponsor and the instructor can be one in the same.
- (9) "Training course" means initial hearing officer instruction or a continuing education that is in accordance with this administrative regulation.

Section 2. Training Requirements. In addition to any agency-specific training or requirements, an individual shall complete the initial training requirements and satisfy the continuing training requirements of this administrative regulation in order to serve as a hearing officer.

Section 3. Initial Training Requirements. The initial hearing officer training requirement shall be eighteen (18) instructional hours of approved training.

Section 4. Continuing Education Training Requirements.

- (1) A hearing officer shall earn a minimum of six (6) credits of approved training each educational year.
- (2) A hearing officer who earns more than six (6) credits for an educational year may carry forward up to twelve (12) credits to satisfy the continuing education requirements for the next two (2) educational years.

(3) Any excess credits earned in an educational year greater than twelve (12) credits shall not be carried forward.

(4) Credits shall not be carried forward more than two (2) years.

Section 5. Qualifying Standards for Training Courses. Training courses shall consist of a topic or topics that contribute to the skills necessary to serve as a competent hearing officer such as:

- (1) Adequate notice;
- (2) Administrative law and procedure;
- (3) Application of KRS Chapter 13B;
- (4) Case management;
- (5) Conduct and control of hearings;
- (6) Credibility of witnesses;
- (7) Decision writing;
- (8) Due process;
- (9) Ethics;
- (10) Evidence;
- (11) Findings and evidence;
- (12) Intervention;
- (13) Mediation; and
- (14) Prehearing conferences and discovery.

Section 6. Approvals and Instructor Qualifications.

(1) A training course shall only qualify for credit if it is approved by the office as meeting the standard of Section 5 of this administrative regulation.

(2) Any person, entity, or sponsor of a training course seeking to qualify it for credit shall provide to the office for evaluation:

- (a) An outline of the course in sufficient detail to disclose the pertinent material that is to be taught;
- (b) The work experience, credentials, and educational background of the training course instructor; and
- (c) any other information requested by the office to determine the appropriateness of the course.

(3) A hearing officer training course shall be conducted substantially as submitted for approval by the office.

(4) Training Course Instructor.

- (a) The instructor shall have substantial, recent experience and demonstrated ability in offering the training for which credit is sought; and
- (b) The instructor shall have the education, training, or experience to provide training in the subject matter of the presentation. For example, appropriate education, training, or experience may be demonstrated by having taught or conducted an approved training course within the past two (2) years, academic credentials or qualifications, writings or publications authored by the individual, or public speaking or panel presentations involving subject matters relevant to administrative hearings or the practice of administrative law.

(5) It shall be the responsibility of the individual seeking credit for the satisfaction of training requirement to ensure that the course has been approved by the office. The individual seeking credit shall bear the risk of seeking approval for courses already taken without pre-approval.

Section 7. Compliance.

(1) An individual shall not serve as a hearing officer in an administrative hearing unless compliant with the training requirements of this administrative regulation.

(2) If the agency utilizes a hearing officer not provided by the office, the agency shall ensure that the hearing officer is compliant with the training requirements of this administrative regulation, at a minimum.

RUSSELL M. COLEMAN, Attorney General
J. CHRISTOPHER BOWLIN, Executive Director

APPROVED BY AGENCY: October 30, 2024

FILED WITH LRC: November 4, 2024 at 11:35 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2025, at 10:00 a.m. Eastern Time at the Kentucky Office of Attorney General, Office of Administrative Hearings, 1024 Capital Center Drive, Room A, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through January 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: J. Christopher Bowlin, Executive Director, Office of Administrative Hearings within the Department of Law, Office of Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5300, fax (502) 564-2894, email christopher.bowlin@ky.gov.