# LOUISIANA ADMINISTRATIVE CODE, TITLE 1
# ADMINISTRATIVE LAW
# Part III. DIVISION OF ADMINISTRATIVE LAW

## Chapter 1. General Rules

### §101. Purpose

A. Adjudications conducted by the Division of Administrative Law (DAL) are governed by Chapters 13 and 13-B of the Administrative Procedure Act (APA), R.S. 49:950 et seq., and R.S. 49:991, et seq. These rules are not intended to be a comprehensive guide for hearings conducted by DAL, but are intended only as a supplement to the APA and R.S. 49:991, et seq. Adjudications conducted pursuant to federal law or R.S. 49:999.1 may be governed by other rules.

B. Except as otherwise required by law, this Chapter governs procedures used in DAL adjudications.

C. If any provision of these rules, or the application thereof, is held to be invalid, the remaining provisions shall not be affected, so long as they can be given effect without the invalid provision.

D. Procedural issues that are not addressed by the APA are governed by the Louisiana Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by Department of Civil Service, Division of Administrative Law, LR 28:40 (January 2002), amended LR 46:315 (March 2020).

### §103. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

*Adjudication*—agency process for the formulation of a decision or order.

*Adjudicatory Hearing*—a contested case hearing conducted by an administrative law judge pursuant to the APA in which the legal rights, duties, or privileges of a person are required by law to be determined after notice and an opportunity for a hearing. This does not include telephone status conferences.

*Adjudicatory Record*—all pleadings, documents, correspondence and other items filed with the administrative hearings clerk in connection with an adjudication, including those items specified in R.S. 49:955(E).

*Administrative Hearings Clerk*—an individual designated by the Director of DAL to administer case files in all adjudications. The administrative hearings clerk is the custodian of records for DAL.

*Administrative Law Judge*—a judge of the executive branch, employed by DAL, who exercises quasi-judicial power by adjudicating matters pursuant to the APA.

*APA*—Administrative Procedure Act, R.S. 49:950, et seq.

*DAL*—the Division of Administrative Law.

*Decision or Order*—the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any agency, in any matter other than rulemaking, required by constitution or statute to be determined on the record after notice and opportunity for an agency hearing.

*Discovery*—the process of determining relevant information for use at an administrative hearing. Discovery is conducted prior to an administrative hearing.

*Electronic Transmission/Electronic Means*—methods to deliver documents over the internet or other wired or wireless means including, but not limited to, e-mail, facsimile, and document sharing through the internet

*Evidence*—testimony and exhibits admitted by an administrative law judge into the adjudicatory record to prove or disprove the existence of alleged facts.

*Exhibits*—documents, records, photographs, or other forms of data compilation, regardless of media, or other tangible objects offered by a party as evidence in an adjudication.

*In Camera Inspection*—a private review by the administrative law judge of records received as evidence, or a proceeding during which such records are reviewed in which only authorized persons are permitted to inspect, copy, or otherwise learn of the contents of such records.

*Party*—each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

*Person*—an individual, representative, corporation, or other entity, including a public or non-profit corporation, or an agency or instrumentality of federal, state, or local government.

*Pleading*—a filed document that sets forth requests for procedural or substantive relief, makes claims, alleges facts, makes legal argument(s), or otherwise addresses matters to be considered in an adjudication.

*Qualified Interpreter*—a person whose qualifications are such that he/she is able to accurately communicate with and convey information to and from a person who is hearing impaired or who cannot speak or understand the spoken or written English language.

*Referring Agency*—the state agency for which an adjudication is being held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq. and R.S. 49:958
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:40 (January 2002), amended LR 38:2946 (November 2012), amended LR 46:315 (March 2020).

**§105. Computation of Time (formerly §109)**

A. In computing a period of time allowed or prescribed by law, the date of the act, event, or default is not included in the computation. The last day of the period is to be included, unless it is a legal holiday as defined in R.S. 1:55, in which case the period runs until the end of the next day which is not a legal holiday.

B. A half-holiday is considered a legal holiday. A legal holiday is to be included in the computation of a period of time allowed or prescribed, except when:

1. it is expressly excluded;
2. it would otherwise be the last day of the period; or
3. the period is less than seven days.

C. When one party to a case is an agency in the executive branch of state government, a legal holiday shall be excluded in the computation of a period of time allowed or prescribed to seek rehearing, reconsideration, or judicial review or appeal of a decision in accordance with C.C.P. art. 5059, unless otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq. and La. C.C.P art. 5059.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002), amended LR 38:2946 (November 2012), repromulgated LR 46:316 (March 2020).

**§107. Petitions for Adoption, Amendment, or Repeal of Rules; Form and Procedure**

A. Petitions for the adoption, amendment, or repeal of rules or regulations promulgated by DAL shall be submitted to: Division of Administrative Law, Attn: Director's Office, Post Office Box 44033, Baton Rouge, LA 70804-4033.

B. Petitions shall be in writing and shall state the name and address of an individual who may be contacted relative to the contents of the petition.

C. A request that does not comply with the Paragraphs in this Subsection shall be returned to the requesting party with an attached statement explaining why the request is incomplete. Petitions shall include the following information:

1. a statement of whether the requested rule change involves the adoption, amendment, or repeal of a rule, or any combination thereof;

2. a citation to the existing rule for which an amendment or repeal is being requested or a statement that the rule will be a new rule, if proposed for adoption;

3. a draft of the proposed wording of the requested rule change or a statement detailing the content of the requested rule change;

4. a statement of why the request is being made;

5. a simple, concise and direct statement of the material facts that the requesting party believes support the requested rule change;

6. if not already included in any of the previously required statements, a statement of who would benefit from the requested rule change and how they would benefit;

7. if known, the citation to any statute(s) that specifically relates to the content of the requested rule change;

8. the name, address, telephone number and, if available, a fax number and e-mail address of the person making the request; and

9. the expected financial impact that the proposed adoption, amendment, or repeal would have.

D. Petitions for the adoption, amendment, or repeal of rules or regulations shall be considered within the time period provided in the APA. Petitions shall either be denied in writing, stating reasons for the denial, or rule-making proceedings shall be initiated in accordance with the APA.

E. DAL, in its review of the requested rule change, shall exercise its rulemaking powers under the APA and its decision shall be a discretionary exercise of its rulemaking powers and shall not be a “decision” or “order” as defined in the APA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 46:316 (March 2020).

**§109. Legal Representation of Parties**

A. Parties have the right to retain counsel but are not required to do so. A person may appear and be heard on his/her own behalf, unless otherwise provided by law.

B. Representation of a person in a matter before DAL is limited to licensed attorneys, unless state or federal law allows representation by non-attorneys or agency representatives.

1. *Pro Hac Vice*. Attorneys admitted to practice in states other than Louisiana, in good standing, may be admitted to appear *pro hac vice* in a specific hearing by submitting approval of *pro hac vice* admission by the Louisiana Attorney Disciplinary Board, pursuant to Louisiana Supreme Court Rule XVII Section 13.

2. When state or federal law allows representation by a non-attorney authorized representative, the party’s authorized representative shall provide DAL with the representative's mailing address, telephone number, and e-mail address. If the party’s representative is not licensed to practice law in Louisiana, and the authority of the representative is challenged, the representative must show authority to appear as a representative. This rule does not permit the unauthorized practice of law.

C. When more than one attorney makes an appearance on behalf of a party, the attorney whose signature first appears on the initial pleading for a party shall be deemed the lead attorney for that party unless another attorney is

specifically designated as such in writing. Unless otherwise ordered by the administrative law judge, all communications sent by DAL or other parties regarding the matter shall be sent to the lead attorney.

D. Attorneys not identified in the initial pleading as the counsel of record shall enroll as counsel of record by filing a written motion to enroll as counsel, or by oral motion made in a telephone status conference or hearing when all parties or counsel are present or fail to participate after receiving notice. All oral motions should be followed-up in writing.

E. An attorney making a limited appearance in accordance with rule 1.2(c) of the Rules of Professional Conduct must include on any pleading filed, "Attorney for limited purpose of [state matter or proceeding]" on the signature page of that pleading.

F. An attorney may withdraw from representing a party by written motion filed by the withdrawing attorney, the substituting attorney, or the party. The motion must be served on all parties. An attorney will remain enrolled until the administrative law judge grants the motion to withdraw. The motion shall:

1. contain the name, address, telephone number, fax number, and e-mail address of the substituting attorney, if any; and

2. contain the party's last known address, telephone number, fax number, e-mail address, and a statement that the party or substituting attorney has been notified of all pending hearings and deadlines.

G. A state agency or attorney with a law firm may substitute one attorney for another by providing written notice to all parties and the administrative law judge, without necessity for a motion and order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 46:316 (March 2020).

**§111. Public Attendance at In-Person Hearings**

A. Unless prohibited by law, DAL hearings are open to the public.

B. Parties, representatives, and other members of the public shall conduct themselves with dignity, show courtesy and respect for one another and for the administrative law judge, and follow any additional guidelines prescribed by the administrative law judge.

C. The administrative law judge retains the authority to exclude any person from a hearing for improper conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 46:317 (March 2020).

**§113. Media Coverage and Use of Recording Devices**

A. Proceedings that are open to the public may be photographed or recorded, whether for broadcast or personal use, in a manner that does not interfere with the orderly conduct of the proceeding, unduly distract participants, or impair the dignity of the proceedings. A person desiring to photograph or record a DAL proceeding must notify the administrative hearings clerk before doing so. Photographing or recording in a covert manner is prohibited.

B. Recording or photographing any of the following is prohibited:

1. proceedings that are closed to the public;

2. conferences between an attorney and his/or her client, conferences between an attorney and witness(es), or conferences between attorneys;

3. bench conferences or other deliberations of the administrative law judge(s); or

4. other privileged or confidential communications.

C. The administrative law judge may:

1. specify the placement of media personnel and/or equipment;

2. require a pool system to be used if media coverage is sought by more than one person. It will be the responsibility of the media to resolve any disputes as to who will operate equipment in the hearing room.

D. Equipment shall not produce distracting sound or light. Moving lights, flash attachments, or sudden lighting changes are prohibited.

E. All equipment shall be in place in advance of the commencement of the proceeding and shall not be moved while the hearing is in progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 46:317 (March 2020).

### §115. Request for Accommodations; Interpreter

A. A party or witness who wants to request a reasonable accommodation pursuant to the Americans with Disabilities Act may request an accommodation by calling the administrative hearings clerk at 225-342-1800. To ensure the accommodation will be available, written requests should be made at least five business days prior to a hearing or conference.

B. Upon request of a party or witness who cannot hear, speak, or understand the spoken or written English language, a qualified interpreter shall be provided during a hearing or conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 46:317 (March 2020).

### §117. Ex Parte Communications

A. Once a case has been docketed by DAL, no party shall communicate with the assigned administrative law judge regarding the case without the knowledge and consent of all other parties to the matter, except at conferences and/or hearings. The administrative law judge shall promptly notify all parties of any ex parte communication and allow each party an opportunity to respond.

B. To obtain information about a case, calls should be placed to the administrative hearings clerk's office at (225) 342-1800. The administrative hearings clerk's office can answer questions regarding whether a case has been docketed, hearing dates, receipts of filings, and whether an order or decision has been issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 46:317 (March 2020).

## Chapter 3. Records

### §301. Custodian of Records

A. The administrative hearings clerk is the custodian of records for DAL. The files maintained by the administrative hearings clerk are the official record of adjudications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002), amended LR 38:2946 (November 2012), amended LR 46:317 (March 2020).

### §303. Confidentiality (formerly §525)

A. Except as otherwise provided by law, all adjudicatory records are public records.

B. Any portion of the adjudicatory record deemed by statute or regulation to be confidential should be brought to the attention of the administrative law judge, by the party who submitted the document, in order to ensure confidentiality.

C. If a motion for protective order or other request for confidentiality is filed, the administrative law judge may designate, in writing, that all or a portion of the adjudicatory record be sealed. Any such request for confidentiality must state the factual and legal bases that support the claimed privilege or exemption from the records being public. The administrative law judge may require an in camera inspection of all or a portion of the requested documents.

AUTHORITY NOTE: Promulgated in accordance with R. S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002), repromulgated LR 46:317 (March 2020).

### §305. Record of Hearings; Copies of Audio Recordings; Transcripts

. All decisions, orders, and notices issued by the administrative law judge; all pleadings, audio recordings or transcripts (if available) of hearings; or documentation, information, or other materials of any kind submitted in a matter shall be public record and shall be available for inspection by the public, except as otherwise provided by law.

B. DAL makes an audio recording of all hearings, but only transcribes the recordings upon written request and pre-payment of costs. Requests for transcripts shall be made in writing and be submitted to the Administrative Hearings Clerk. The administrative hearings clerk will furnish an estimate of the transcription costs. The estimated costs shall be paid before the recording will be transcribed. If the estimated costs are less than the actual cost, the difference must be paid in full before the transcript will be delivered. All transcripts requested and transcribed will be filed into the adjudicatory record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002), amended LR 38:2946 (November 2012), amended LR 46:318 (March 2020).

## Chapter 5. Commencement of Adjudications

### §501. Commencement of Adjudications; Assignment of Docket Number and Administrative Law Judge (formerly §503)

A. A case is commenced for purposes of this Chapter upon the filing of a hearing or mediation request by a party. If DAL has jurisdiction over a matter, the matter will be docketed and assigned to an administrative law judge.

B. When DAL receives a hearing request subject to its jurisdiction, the matter shall be assigned a docket number to be used on all subsequent pleadings filed in the matter.

C. If an administrative law judge is unable to continue presiding or issue a decision after the conclusion of the hearing, the matter may be reassigned to another administrative law judge, who shall review the existing record and, if necessary, conduct further proceedings, before rendering a decision.

D. An administrative law judge may be recused or disqualified from a case based on bias, prejudice, personal interest, or any other good cause. Motions for recusal shall be filed with the administrative hearings clerk. Recusals shall be governed by R.S. 49:999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:42 (January 2002), amended LR 38:2947 (November 2012), repromulgated LR 46:318 (March 2020).

### §503. Location of Hearings; Telephone Hearings (formerly §505)

A. Hearings will be held in the venue required by statute except when the hearing is conducted by telephone.

B. When the governing statute does not require a particular venue, or provides for more than one appropriate venue, the location of hearings will be determined by the administrative law judge, unless otherwise provided by law.

C. The administrative law judge may designate, or a party may request, that all or any portion of a proceeding be conducted by telephone, unless prohibited by law.

1. A party may file an objection to a request or to the administrative law judge's decision to conduct all or any portion of a proceeding by telephone.

2. A party requesting to present testimony of a witness by telephone must file a motion to do so no later than 10 days before the proceeding unless a different time period is allowed by the administrative law judge. The motion shall include the following:

a. the reason for the request;

b. the name of the party or witness who will appear by phone;

c. the telephone number at which the party or witness may be reached at the time of the proceeding; and

d. a certification that the party or witness will be the same person who will appear by telephone at the proceeding.

D. All substantive and procedural rights apply to telephone proceedings, subject only to the limitations of the physical arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:42 (January 2002), repromulgated LR 46:318 (March 2020).

**§505. Hearing Conducted on the Record**

A. A party may request a hearing be conducted entirely based on the record, briefs or other written submissions.

B. A party requesting a hearing on the record must file a motion no later than 10 days before the scheduled hearing unless a different time period is allowed by the administrative law judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 46:318 (March 2020).

**§507. Pleadings—Form and Content (formerly §311)**

A. Unless otherwise required by law, pleadings should:

1. state the name, physical address, mailing address, e-mail address, and telephone number of the person filing the pleading, and his/her bar roll number, if applicable;

2. be legibly written, typewritten or printed with 1-inch top, bottom, and side margins on white paper, no larger than 8 1/2 by 11 inches;

3. be divided into separately numbered paragraphs and double-spaced;

4. state the relief sought;

5. state clearly, concisely, and particularly all relevant facts that support the relief sought;

6. when appropriate, identify any statute, regulation, rule, written statement of law or policy, decision, order, permit, or license and the particular aspect of each upon which the pleading relies;

7. be signed by the party filing the pleading or by his/her duly authorized representative or attorney. The signature of the person signing the document constitutes a certification that he/she has read the document and that, to the best of his/her knowledge, information and belief, every statement contained in the document is true; and

8. certify that service has been made in accordance with these rules.

B. The heading should be similar in format to, and shall include the information contained in, the following example:

STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
DEPARTMENT OF _____ *
_____ *
_____ *
IN THE MATTER OF _____*DOCKET NO. ____
_____ *
_____ *
_____

(TITLE OF PLEADING)

C. The certificate of service should be similar in format to, and shall include the information contained in, the following example:

"I certify that a copy of this document has been transmitted to all parties of record via (state method of transmission) on this __ day of ___ 20___."

D. Failure to comply with this Section shall not invalidate the pleadings, but the administrative law judge shall have discretion to rule whether pleadings are in substantial compliance with this Section, to require the amendment of or supplementation of any pleading, or to take such other action as may be appropriate.

E. A party may amend a pleading without leave of the administrative law judge up to 10 days prior to the hearing on the merits, unless otherwise provided by law or ordered by the administrative law judge. Thereafter, a party may amend a pleading only with leave of the administrative law judge for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002), amended LR 38:2947 (November 2012), repromulgated LR 46:318 (March 2020).

**§509. Filing of Pleadings and Documents (formerly §307)**

A. Any pleading, document, or other item filed with the Administrative Hearings Clerk into the adjudicatory record shall be filed by hand delivery, postal mail, common carrier, or transmitted by facsimile or other electronic means. Documents sent by facsimile should not exceed 20 pages.

B. Unless otherwise provided by law, all pleadings, documents, or other items submitted by hand delivery, facsimile, or other electronic means shall be deemed filed on the date received by the Administrative Hearings Clerk. Pleadings, documents, or other items submitted by postal mail or common carrier shall be deemed timely if postmarked by the legal deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002), amended LR 38:2946 (November 2012), repromulgated LR 46:319 (March 2020), amended LR 46:1371 (October 2020).

**§511. Service of Pleadings (formerly §313)**

A. Except as otherwise required by law, on the day that a pleading or document is filed with the Administrative Hearings Clerk, service of same shall be made upon all other parties, attorneys or designated representatives, by hand delivery, mail or electronic transmission, as shown by a certificate of service. When service is made by hand delivery, a

return of service certifying who was served, the time and date of service, the address where the person was served, and the name of the person who served it is required to be filed into the record.

B. Unless otherwise provided herein, service by mail or by electronic transmission is effective on the date mailed or electronically transmitted. Personal or domiciliary service is effective when delivered or tendered, even if delivery is refused.

C. When a party is represented by an attorney, a designated representative, or has appointed an agent for service of process, notice may be given to the party through the attorney, other designated representative, or agent.

D. Service shall be made at the last known physical, postal, or e-mail address filed into the adjudicatory record. All parties shall promptly notify DAL of any change of address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:42 (January 2002), amended LR 38:2947 (November 2012), repromulgated LR 46:319 (March 2020).

**§513. Notices of Hearings; Orders, Decisions and Other Documents (formerly § 309)**

A. All notices of hearings, orders, decisions and other documents sent by DAL shall be sent by postal mail or transmitted by electronic means, unless otherwise required by law.

1. If a party is not represented by counsel, notices are sent to the party's last known physical, postal, or e-mail address as filed in the adjudicatory record. Failure to maintain a current physical, postal, or e-mail address on file with DAL may result in dismissal of a case for failure to appear.

2. If a party is represented by counsel, notices shall be sent to the counsel of record only.

B. If a party provides DAL with an e-mail address, DAL may elect to send all notices, orders, decisions and other documents to the party exclusively at the e-mail address provided. Parties may, at any time, opt out of being served by e-mail, but the opt-out will not be effective until communicated to DAL and all other parties in writing. Parties receiving communications from DAL exclusively by e-mail shall:

1. notify DAL of any change of e-mail address in writing; and

2. ensure that e-mail filters and settings allow the delivery of e-mails from DAL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and R.S. 49:958.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:41 (January 2002), amended LR 38:2946 (November 2012), repromulgated LR 46:319 (March 2020).

# Chapter 7. Adjudications

**§701. Consolidation; Severance of Actions (formerly §511)**

A. When two or more adjudications involving common issues of law or fact are separately pending before DAL, the administrative law judge, may upon his/her own motion or that of any party, at any time prior to the adjudicatory hearing, order the consolidation of the matters or order a joint hearing on any of the common issues. If the matters are pending before two or more administrative law judges, the approval of each administrative law judge is required for consolidation. The matter with the higher docket number shall be transferred to the administrative law judge to whom the matter with the lower docket number was assigned.

B. An administrative law judge may sever consolidated matters to further administrative convenience, expedition, and economy, or to avoid undue prejudice. Severance may be ordered upon the administrative law judge's own motion, or a party's motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:42 (January 2002), repromulgated LR 46:320 (March 2020).

**§703. Intervention**

A. A non-party seeking to intervene shall file a motion stating the specific grounds for the intervention. An administrative law judge may, upon contradictory hearing, permit the intervention of a non-party as permitted by law. To avoid undue delay or prejudice to the original parties, an administrative law judge may limit the factual or legal issues that may be raised by an intervenor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 46:320 (March 2020).

**§705. Continuances (formerly §515)**

A. Except where otherwise prohibited by law, a continuance may be granted in any case for good cause shown. Motions for continuance, when made prior to the date and time of the noticed hearing, shall be in writing and transmitted in accordance with Rule 511. Continuances may be requested during a hearing or status conference upon an oral motion of a party made on the record.

B. A written motion for continuance should include:

1. the number of motions for continuance previously filed in the case by each party;

2. the specific reason for the continuance;

3. at least three proposed dates for the rescheduled proceeding;

4. a statement of whether the motion for continuance is opposed by any party or that the other party failed to respond whether they oppose the motion; and

5. a certificate of service.

C. Motions for continuance should be filed as soon as the need for the continuance becomes known. In any event, motions for continuance shall be filed no later than five days before a hearing. For good cause shown, the administrative law judge may consider a motion filed after that time or presented orally at the proceeding.

D. A motion for continuance is not granted until it has been ruled on by the administrative law judge, even if the motion is uncontested. A case is subject to default or dismissal for a party's failure to appear at a scheduled hearing in which a motion for continuance has not been ruled on by the administrative law judge.

E. A continuance request may be denied if a continuance would prevent the case from being concluded within any statutory deadline.

F. When an administrative law judge grants a continuance, each party is responsible for notifying its own witnesses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:43 (January 2002), amended LR 38:2947 (November 2012), repromulgated LR 46:320 (March 2020).

**§707. Prehearing Conferences and Orders (formerly §527)**

A. An administrative law judge, upon his/her own motion, or upon motion of any party, may direct the parties or their representatives to engage in a prehearing conference. The administrative law judge shall set the time and place for a prehearing conference, and shall give reasonable notice of the prehearing conference to all parties. Prehearing conferences may be conducted by telephone. Prehearing conferences will be conducted in accordance with R.S. 49:998, for the purpose of dealing with any of the following:

1. exploration of settlement possibilities;
2. possibility of obtaining stipulations or admissions of fact;
3. simplification of issues;
4. rulings on the identities and limitation on the number of witnesses;
5. objections to proffers of evidence;
6. order of presentation of evidence and cross-examination;
7. rulings regarding issuance of subpoenas and protective orders;
8. schedules for the submission of written briefs;
9. schedules for the conduct of a hearing; and
10. any other matter to promote the orderly and prompt conduct of the adjudication.

B. After a prehearing conference, the administrative law judge may require, prior to a hearing on the merits, that the parties submit a joint proposed prehearing order approved and signed by all parties, or their counsel of record, incorporating the matters determined at the prehearing conference. Except as otherwise provided, the proposed prehearing order shall set forth the following:

1. a brief but comprehensive statement of the factual and legal contentions of each party;
2. a list of all legal authority, including statutes, code articles, regulations, and cases relied upon by each party;
3. a detailed itemization of all pertinent uncontested facts established by pleadings, stipulations, and admissions;
4. a detailed itemization of all contested issues of fact;
5. a list of all contested issues of law;
6. a list and brief description of all exhibits to be offered into evidence by each party. Exhibits to be used solely for impeachment or rebuttal need not be included on the list;
7. a list naming the fact witnesses and the expert witnesses each party may call and a short statement as to the nature of their testimony. Witnesses to be called solely for impeachment or rebuttal need not be included on the list;
8. a list of all matters to be officially noticed;
9. a statement by each party as to the estimated length of time necessary to present its case;
10. any other stipulations;
11. a list of all pending motions;
12. a statement as to any other matters that may be relevant for a prompt disposition of the case; and
13. the following certification: "We certify that we have conferred for the purpose of preparing this joint proposed prehearing order and that we have no objections to the contents of this prehearing order other than those attached" and this order:

"IT IS ORDERED that this matter is set for hearing at _____ o'clock, __.M. on the _____ day of _____ 20__ and to continue until completed."

_____
ADMINISTRATIVE LAW JUDGE

C. In the event that any party disagrees with the proposed prehearing order, or any part of it, he/she shall attach to the order a signed statement of opposition with reasons, but shall sign the joint proposed prehearing order which shall be deemed to be approved in all respects except those covered in the statement of opposition.

D. Any counsel or other representative attending the prehearing conference shall be knowledgeable of all aspects of the case and possess the necessary authority to commit his/her client to changes, stipulations, and hearing dates.

E. Once an order has been signed setting the case for an adjudicatory hearing on the merits, no amendments to the prehearing order shall be made, except at the discretion of the administrative law judge based upon consent of the parties or for good cause shown. If a party fails to cooperate in preparing or filing a prehearing order, the administrative law judge may proceed with the prehearing conference, sign the prehearing order as drafted, continue the prehearing conference, continue the hearing, or order such other action as necessary to facilitate the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002), amended LR 38:2948 (November 2012), repromulgated LR 46:320 (March 2020).

**§709. Motions (formerly §517)**

A. All requests to the administrative law judge shall be made by written motion, unless made during a hearing or conference, and shall state the grounds for the request and describe the action or order sought. A copy of all written motions shall be served on all parties as provided in §511 of these rules.

B. Unless otherwise provided, all motions shall be filed at least 10 days prior to the hearing, unless the need for the motion could not reasonably have been foreseen. Such motions should be filed as soon as the need for the motion becomes reasonably foreseeable.

C. Unless otherwise ordered by the administrative law judge, a response to a motion must be filed within five days after service of the written motion.

D. In cases where timelines must be accelerated to comply with legal deadlines, the administrative law judge may require motions and responses be filed in a shorter timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:43 (January 2002), repromulgated LR 46:321 (March 2020).

**§711. Subpoenas (formerly §519)**

A. DAL may order the issuance of a subpoena, requiring the attendance and testimony of a witness and/or the production of objects or documents, upon written request of a party in compliance with this rule. All requests for subpoenas shall be received by DAL at least 15 business days prior to the date of the hearing, unless otherwise ordered by the administrative law judge or provided by law. In those instances, the administrative law judge will determine how far in advance subpoena requests must be received by DAL.

1. The subpoena request shall include the following:

a. the heading contained in §507.B of these rules;

b. the name of the party and the representative or attorney requesting the subpoena;

c. the complete name, service address (with directions if necessary), and telephone number of the person being subpoenaed;

d. a sufficient description of any document(s) or item(s) to be produced;

e. a brief statement demonstrating the potential relevance of the testimony or evidence sought;

f. the date, time, place and proceeding for which the subpoena is requested; and

g. a check or money order, made payable to each witness subpoenaed, to cover witness fees, and all other costs, fees, and expenses required by or as referenced by R.S. 49:956(5).

2. The subpoena shall be prepared and served by the party requesting the subpoena. The party requesting the subpoena must file a return of service into the administrative record certifying who was served, the time and date of service, the address where the person was served, and the name of the person who served it.

B. Failure of a witness to appear or respond to a subpoena may be grounds for a continuance unless Subsection A has been complied with. However, the administrative law judge may grant a continuance when the interest of justice requires it.

1. Only the administrative law judge may dismiss a witness who appears at a hearing pursuant to a subpoena issued by DAL.

2. If a hearing is continued, witness fees and all other costs, fees, and expenses required by or as referenced by R.S. 49:956(5) must be submitted in order for a subpoena to be reissued.

C. Any person served with a subpoena who has an objection to it may file an objection or motion to quash. The objection shall be filed promptly, at or before the time specified in the subpoena for compliance, and shall set forth the reasons for the objection. The administrative law judge may cancel or modify the subpoena if it is improper or unduly burdensome, taking into account the costs or other burdens of compliance when compared with the value of the testimony or evidence sought for the presentation of a party's case, and whether there are alternative methods of obtaining the desired testimony or evidence. Modification may include requiring the party requesting the subpoena to pay reasonable costs of producing documents, books, papers, or other tangible things.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and amendments to R.S. 32:668.A effective August 1, 2012.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:43 (January 2002), amended LR 38:2948 (November 2012), repromulgated LR 46:321 (March 2020).

**§713. Discovery (formerly §521)**

A. Any party to a proceeding may conduct discovery in any manner provided by Title III, Chapter 3 of the Code of Civil Procedure.

B. A person from whom discovery is sought may file a motion for protective order to prevent that person from having to produce the discovery sought. A motion for protective order shall be filed prior to the date the discovery response is due. A person must respond to all discovery requests to the extent a protective order is not sought or is not granted.

C. A party alleging failure to comply with discovery shall file a motion to compel as soon as practicable. A motion to compel shall include the relevant portion of the discovery response(s) at issue, and shall be filed no less than 10 days before the date of the hearing on the merits, unless good cause is shown. An administrative law judge may deny or limit the relief sought in a motion to compel if he/she determines that the discovery requests at issue are improper or unduly burdensome.

D. When attempting to obtain documents or things from a party to the proceeding, the party seeking the documents should attempt to do so through other methods of discovery prior to requesting a subpoena duces tecum.

1. In cases conducted under R.S. 32:661 et seq., the Louisiana Tests for Suspected Drunken Drivers law, a party seeking video or audio recordings of the underlying events should request that the subpoena duces tecum be directed to the arresting agency.

AUTHORITY NOTE: Promulgated in accordance with R. S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:43 (January 2002), amended LR 38:2948 (November 2012), repromulgated LR 46:322 (March 2020).

**§715. Consent Order, Settlement, or Stipulation**

A. The parties must promptly notify DAL of a settlement, stipulation, or consent order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by Department of Civil Service, Division of Administrative Law, LR 46:322 (March 2020).

**§717. Reserved**

**§719. Reserved**

**§721. Evidence (formerly §523)**

A. Maps, drawings, and other exhibits should not exceed 8 1/2 by 14 inches unless they are folded or reduced to the required size.

B. During an in-person hearing, copies of all labeled and numbered exhibits shall be furnished to the administrative law judge and all parties, unless the administrative law judge rules otherwise.

C. For telephone hearings, a party submitting exhibits should submit them to the administrative law judge and all parties no later than three business days before the hearing, unless the administrative law judge rules otherwise. Failure to timely submit and exchange exhibits may result in exhibits not being admitted into evidence.

D. The weight given to any evidence shall be determined by the administrative law judge based on its reliability and probative value.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002), amended LR 38:2948 (November 2012), repromulgated LR 46:322 (March 2020).

**§723. Rehearing, Reopening (formerly §529)**

A. Requests for reconsideration, reopening, or rehearing are subject to the procedures and requirements of R.S. 49:959. Any request for reconsideration, reopening, or rehearing must be received by DAL within 10 business days (exclusive of legal holidays or weekends) from the date the decision is transmitted. Computation of time shall be determined in accordance with Rule 105.

B. Unless otherwise provided by law, judicial review of a decision is subject to the procedures and time limits of R.S. 49:964 and R.S. 46:107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and R.S. 49:958.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002), amended LR 38:2948 (November 2012), repromulgated LR 46:322 (March 2020).

**§725. Termination of Adjudications; Voluntary Withdrawal; Abandonment (formerly § 531)**

A. The administrative law judge may issue an order terminating an adjudication based upon voluntary waiver, withdrawal of the request for a hearing, rescission by the agency of the underlying action, settlement, stipulation, consent order, or any other reason deemed proper or lawful by the administrative law judge.

B. In accordance with R.S. 49:955(A), a party who requests an administrative hearing may be deemed to have waived the right to a hearing if, after having been provided with reasonable notice, the party fails to appear on the day and time set for hearing, unless otherwise provided by law. In such instances, the rule to show cause, hearing request, or appeal may be terminated based on the party's waiver of the right to a hearing. The order terminating the adjudication shall be transmitted to the party's last known address.

C. Abandonment. Except as otherwise provided by law, an action is abandoned when the parties fail to take any step in its prosecution or defense for a period of three years.

1. This provision shall be operative without formal order. However, on an ex parte motion of any party, other interested person, or the Administrative Hearings Clerk, supported by an affidavit, the administrative law judge shall enter an order terminating adjudication as of the date of its abandonment.

2. The affidavit shall specify that no step has been taken in the prosecution or defense of the action for a period of three years.

3. The order shall be transmitted to all parties, and the parties shall have 30 days from date of transmission to file a motion to set aside the dismissal based on a showing of good cause.

4. Any request for discovery as authorized by these rules and the APA that is served on all parties, regardless of whether or not such discovery was filed in the record, including the taking of a deposition with or without formal notice, shall be deemed to be a step in the prosecution or defense of the action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and R.S. 49:958.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:44 (January 2002), amended LR 38:2949 (November 2012), repromulgated LR 46:322 (March 2020).

# Chapter 9. Mediation

### §901. Mediation (formerly §701)

A. Any party may request a pre-trial mediation conference.

B. Mediation shall not be conducted over the objection of a party.

C. The administrative law judge to whom the case was originally assigned shall not conduct the mediation. The order setting the matter for mediation shall designate another administrative law judge to act as mediator.

D. Each party, representative, or attorney shall negotiate in good faith, and be prepared to obtain the authority necessary to settle and compromise the adjudication. The mediator may permit a telephone appearance in lieu of a personal appearance for good cause or convenience of the parties.

E. Mediation shall not unduly delay the hearing schedule. The presiding administrative law judge may continue scheduled dates upon the motion of a party or on his/her own motion.

F. Confidentiality of mediations shall be governed by R.S. 9:4112.

G. Each party or representative should submit to the assigned mediator, at least one day prior to the conference, information sufficient to explain the nature and circumstances of the case. The submittals need not be in any certain form and may consist of any documents, exhibits, or writings the party wishes the mediator to consider before the conference. The mediator may use all statements, documents, exhibits or other types of information submitted, as he/she deems appropriate to foster settlement unless a party has expressly stated otherwise.

H. The mediator shall not draft settlement agreements. Agreements may be recited on the record before the presiding administrative law judge and later reduced to writing by the parties or their representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:45 (January 2002), repromulgated LR 46:323 (March 2020).

# Chapter 11. Ethics Adjudicatory Board

### §1101. Selection of Board Members and Panels (formerly §801)

A. Public Meeting. The selection of the Ethics Adjudicatory Board will take place during a public meeting of the Louisiana Board of Ethics.

B. Random Selection Process

1. The director of DAL, or his/her designee, shall, at a public meeting of the Board of Ethics in December of the year preceding the year in which the terms are to begin, randomly select seven administrative law judges from among

those who meet the qualifications to comprise the Ethics Adjudicatory Board. Members of the adjudicatory board shall have:

a. not less than two years of experience as an administrative law judge; or

b. not less than 10 years of experience in the practice of law.

C. Term of Board. The members shall each serve a three-year term, which shall begin on January first of the year following their selection. There shall be no limitation on the number of times a qualified member may be selected to serve.

D. Three Judge Panels. The administrative law judges shall sit in three judge panels as assigned by the Director. When a new case is docketed, it will be allotted alternately between the two panels. A case docketed and assigned to a panel shall remain with that designated panel until final disposition.

E. Alternate Judge. The seventh name selected shall be an alternate administrative law judge to be substituted for administrative law judges who are unavailable due to recusal, end of employment with DAL, or for other good cause.

F. A vacancy on the Ethics Adjudicatory Board shall be filled for the unexpired term at the next public meeting of the Board of Ethics in the same manner as for the original selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and R.S. 42:1141.2.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008), amended LR 38:2949 (November 2012), repromulgated LR 46:323 (March 2020).

**§1103. Recusal of an Ethics Adjudicatory Board Member (formerly §803)**

A. An Ethics Adjudicatory Board member shall voluntarily recuse himself and withdraw from any adjudication in which he cannot accord a fair and impartial hearing or consideration, when required by applicable rules governing the practice of law in Louisiana or for other good cause such as conflict of interest. Applicable recusal provisions include R.S. 49:960, R.S. 49:999, or other conflict of interest provisions.

B. When an Ethics Adjudicatory Board member is recused from a panel or a case to be adjudicated, the alternate administrative law judge shall be assigned to the panel or case.

C. In the event the alternate administrative law judge is unavailable, the administrative hearings clerk shall randomly select a name from the remaining Ethics Adjudicatory Board members. The selected individual shall be substituted on the panel or the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008), repromulgated LR 46:323 (March 2020).

**§1105. Panel Procedure (formerly §805)**

A. The panel shall select a chief administrative law judge, from its members, who will preside over the hearings and coordinate the docket of the panel.

B. The determination of the majority of the panel in a particular case shall be the determination of the Ethics Adjudicatory Board.

C. After a hearing, the presiding administrative law judge shall assign authorship responsibility to a panel member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and R.S. 42:1141.5.
HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008), amended LR 38:2949 (November 2012), repromulgated LR 46:324 (March 2020).

**§1107. Appeals to the Court of Appeal (formerly § 807)**

A. When a decision of the Ethics Adjudicatory Board is appealed to the Court of Appeal, First Circuit, copies of the motion for appeal shall be served upon DAL and all parties of record.

B. DAL shall prepare the record on appeal after the appellant pays the costs pursuant to §305 of these rules.

C. Any motion for an appeal shall comply with the local rules of the Court of Appeal, First Circuit, and Uniform Rules of Louisiana Courts of Appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and R.S. 42:1142.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008), amended LR 38:2949 (November 2012), repromulgated LR 46:324 (March 2020).