

# NOTICE

## OCD HEARING GUIDELINES

EFFECTIVE DECEMBER 12, 2019

### GUIDELINES FOR PRESENTATION OF CASES BY AFFIDAVIT

1. Identify the applicant and the nature of the case, confirm the applicant's compliance with the notice requirements for the application and hearing, request the admission of the application, affidavits and exhibits, and ask that the case be taken under consideration. Do not describe in detail the affidavits and exhibits.
2. Submit hard copies of the application, affidavits and exhibits. Provide the original to the hearing examiner and one copy to the court reporter.
3. Submittals must have a table of contents and be tabbed. Pages printed on 8x11 paper must be double-sided to the extent possible.
4. No later than five (5) business days after the hearing, submit the application, affidavits and exhibits in pdf format by electronic mail with the subject line "Exhibits for Case # \_\_\_\_" to [OCD.Hearings@state.nm.us](mailto:OCD.Hearings@state.nm.us).
5. If authorized by the hearing examiner at the hearing, the applicant may supplement the record with a corrected or additional exhibit, except for the affidavit of compliance with the notice requirements for the application and hearing. The applicant must file and serve a notice pleading with the corrected or additional exhibit.

## **GUIDELINES FOR PRESENTATION OF CASES BY WITNESSES**

1. The OCD rules, 19.15.4 NMAC – *Adjudication*, govern this hearing. The rules provide that the rules of evidence do not control, but may be used as guidance. 19.15.4.17(A) NMAC. The rules also provide that hearings will not be conducted with rigid formality. 19.15.4.14(A) NMAC.
2. Parties are requested to respect the rules of evidence and exercise discretion in making objections.
3. Parties may present a brief opening statement describing the case and expected testimony. Please minimize legal argument to the extent necessary to orient the hearing examiner to the issues and do not argue the evidence.
4. Parties must call each witness by name so that the court reporter can maintain a proper transcript. After direct examination, other parties may cross-examine, followed by redirect. The hearing examiner then may ask questions. The witness may be excused subject to recall for the purpose of presenting rebuttal testimony.
5. Closing statements are not allowed unless requested by the hearing examiner.
6. The hearing examiner may request the parties to file findings of fact and conclusions of law and a legal memorandum of points and authorities. The pleadings must be double-sided with one inch margins, and not exceed 30 pages in total, of which the legal memorandum cannot exceed 10 pages, inclusive of the caption and certificate of service. The pleadings must be filed in pdf and word format at [OCD.Hearings@state.nm.us](mailto:OCD.Hearings@state.nm.us) no later than thirty (30) days after the transcript is uploaded to the OCD Imaging webpage.
7. No later than five (5) business days after the hearing, parties must submit their exhibits in pdf format by electronic mail with the subject line “Exhibits for Case # \_\_\_\_” to [OCD.Hearings@state.nm.us](mailto:OCD.Hearings@state.nm.us).
8. Applications will be heard on a trailing docket. Parties should arrange for their witnesses to be available as necessary to conduct the hearing.