

draft

137-055-2170

State Represented by the Administrator Use of Lay Representatives at Administrative Hearings

(1) As used in this rule “lay representative” means a representative of the Child Support Program (CSP) who is not employed as an attorney.

~~(1)~~**(2) The administrator is Subject to the approval of the Attorney General, lay representatives of the Child Support Program are** authorized to appear on behalf of the state **CSP** in the following types of **administrative** hearings **conducted by the Office of Administrative Hearings**:

(a) Administrative child support adjudications pursuant to ORS **25.287**, 416.415, **416.416, 416.417**, 416.425~~(1)~~, **and** 416.427 and 416.429;

(b) Administrative ~~h~~hearings **regarding state income tax intercepts** pursuant to ORS 25.610 and 293.250~~(d)~~;

(c) Hearings regarding the suspension of occupational and driver licenses, certificates, permits and registrations pursuant to ORS 25.765;

~~(d) Hearings regarding the establishment, modification and enforcement of interstate child support orders pursuant to ORS chapter 110;~~

(e) **(d)** Hearings regarding credit for direct payments pursuant to ORS 25.020~~(13)~~;

(f) **(e)** Hearings regarding overpayments pursuant to ORS 25.125.

(f) Hearings regarding the state’s satisfaction of a support award pursuant to OAR 137-055-5220;

(g) Hearings regarding suspension of support pursuant to ORS 25.245;

(h) Hearings regarding the establishment of arrears pursuant to ORS 416.429;

(i) Hearings regarding physical custody determinations for purposes of joining a party pursuant to ORS 416.407 & OAR 137-055-3500;

(j) Hearings regarding credit for lump sum Social Security/Veterans payments pursuant to ORS 25.275 & OAR 137-055-5520.

(k) Hearings regarding the amount of assigned arrears pursuant to OAR 137-055-6040.

draft

(3) The lay representative may not make legal argument on behalf of the CSP.

(a) “Legal argument” includes arguments on:

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

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

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) As used in this rule, “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 CSP 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;

(E) The correctness of procedures being followed in the contested case.

(4) Lay representatives must read and be familiar with the 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>.

Stat. Auth.: ~~section 2, chapter 73, Oregon Laws 2003~~ **ORS180.345 and 416.455**

Stats. Implemented: **ORS 25.080 and** ORS 183.452

Effective Date: