

Instructions for Requesting Subpoenas for Recipient Appeals

A subpoena is a written order from the Bureau of Hearings and Appeals (BHA) directing the person who is named on the subpoena document to appear at the full hearing as a witness or to bring specific items to the hearing. Subpoenas may also direct a person or business entity to provide the issuing party with documents for use in their appeal proceedings. The attached subpoena example is intended to be used for the production of documents. If you wish to issue a subpoena for the appearance of a witness, please use the subpoena (form OHA142) located at:

- <https://www.dhs.pa.gov/docs/Publications/Documents/Hearings%20and%20Appeals/subpoena.pdf>
(Example on page 7)

In order to receive one or more subpoenas, the requestor must submit a written request to the BHA Site Administrator for an Administrative Law Judge (ALJ) to approve and sign. [1 Pa. Code § 35.142(a).] The requestor can mail, fax or email their subpoena request to BHA; please see page four of this document for addresses, fax numbers, and email addresses. Only select one submission method (mail, fax, or email) and please refrain from submission using multiple methods.

Instructions

Note: The requestor is responsible for the actual completion of all subpoena paperwork (the ALJ only approves and signs the subpoena itself).

- 1) Complete the Application for Issuance of Subpoena (located on page 5).
 - a. Requestors must submit a subpoena application. Requestors will not receive an approved subpoena if they do not submit the separate written application containing all the required information.
 - b. Please ensure the following sections are completed:
 - i. **In the Matter of** – Name of the Appellant / Appeal
 - ii. **Docket No.** – Case or record number followed by appeal number (XXXXXXXXXX-XX)
 - iii. **Submitted for** – Name of Appellant / Appeal
 - iv. **Persons to appear** – name, address, expected testimony, relevance. If for production of documents, indicate “None”
 - v. **Production of documents is requested from** – identify custodian and describe each document, content of document, and facts to be proved by the document. If the subpoena is only for a person to appear, indicate “None” if not required to produce documents.
 - c. BHA staff will not correct any non-compliant subpoena applications.
- 2) Complete the Subpoena.
 - a. Please ensure the following sections are completed:
 - i. **In the Matter of and Docket No.** – same as above
 - ii. **To** – the party that the subpoena is being issued to

- iii. **Receiving Party** – who the documents should be returned to; documents should never be returned to BHA or the ALJ, but rather the person requesting them.
 - iv. **Date** – enter the return by / due date for requested items
 - v. **Issued by** – name, date, address, and telephone number of requestors
 - vi. If approved, the ALJ will sign their designated sections at the bottom of the subpoena
- b. BHA staff will not correct any non-compliant subpoenas. Incorrectly drafted subpoenas will require resubmission in order to be processed.
 - c. A subpoena seeking production of documentary items that may contain material protected from disclosure by statute must be expressly indicated on the subpoena itself (not the application) to provide that “All materials that are statutorily protected from disclosure may be redacted.”
 - d. A subpoena seeking production of documentary items that may contain material protected from disclosure by a claim of privilege must be expressly indicated on the subpoena paper (not the application) to provide that “As to all materials over which a privilege against production is asserted, two sets of materials will be produced; one set with all assertedly privileged material redacted and one set without redaction.”
 - e. For a subpoena requesting appearance of witnesses, use form OHA142.
- 3) Submit the completed subpoena forms to the appropriate BHA region, to the attention of BHA Site Administrator (see page 4). The Site Administrator will route the subpoena to the appropriate ALJ for signature and return it to the requestor if approved and signed.
- 4) Approved subpoenas will be returned to the requestor for service. The requestor is responsible for service of the subpoenas to their respective parties and/or paying any fees and/or mileage costs associated with the subpoena. [1 Pa. Code §§ 35.139; 35.142(b) and (c)]. “Serve” and “service” refer to the method by which you must provide the other party with a copy of the papers filed with the Bureau of Hearings and Appeals and the certificate of service that proves you delivered the papers to the other party. [1 Pa. Code § 33.32]. A certificate of service form for such proof is provided on page 6.

BHA Contact Information

BHA Western Regional Office: Bureau of Hearings and Appeals
2 Gateway Center Suite 1125
603 Stanwix Street
Pittsburgh PA 15222-3594
Fax: 412-565-5514
Email: RA-bhawesternregion@pa.gov

BHA Southeast Regional Office: Bureau of Hearings and Appeals
Philadelphia State Office Building
801 Market Street, Suite 5005
Philadelphia, PA 19107
Fax: 215-560-2378
Email: RA-bhaeasternregion@pa.gov

BHA Central Regional Office: Bureau of Hearings and Appeals
2330 Vartan Way
Second Floor
Harrisburg, PA 17110-9721
Fax: 717-772-2769
Email: RA-pwbhacentralregio@pa.gov

BHA Administrative Regional Office: Bureau of Hearings and Appeals
2330 Vartan Way
Second Floor
Harrisburg, PA 17110-9721
Fax: 717-346-1959
Email: RA-bhaadminregion@pa.gov

In the Matter of:

Docket No:

APPLICATION FOR ISSUANCE OF SUBPOENA

- I. **Submitted for:**

- II. **Persons to appear:**

- III. **Production of documents is requested from:**

Date: _____

In the Matter of:

Docket No:

TO:

SUBPOENA

You are hereby **ORDERED** to provide the following documents to

_____ by _____:

Upon your failure to do so, such penalty as provided in the law shall be imposed.

Issued by:

Requesting party/attorney

Date

Address

(____)_____
Telephone Number

BY THE BUREAU OF HEARINGS AND APPEALS,

DATE: _____

BY: _____
Administrative Law Judge

In the Matter of:

Docket No:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 1 Pa. Code §33.32 (relating to service by a participant).

Dated this ____ day of _____, 20__.

In the matter of:

Docket No.:

To:

SUBPOENA

You are **ORDERED** to attend the hearing held by the **Bureau of Hearings and Appeals** located at:

, at

on to testify to the truth and give evidence in the above-captioned matter, and to remain until excused.

Upon your failure to do so, such penalty as provided in the law shall be imposed.

Issued by:

Requesting Party/Attorney

Date:

Address:

Telephone number:

BY THE BUREAU OF HEARINGS AND APPEALS,

Mailing Date:

By:

Administrative Law Judge