

### Informal Disposition of Contested Case

(1) **After the Agency issues a charging document, a case may be resolved informally** [An informal disposition of a contested case occurs when, after the Agency issues a charging document, a case is resolved] by stipulation, agreed settlement, consent order, settlement agreement, or default.

**(2) When a charging document involves a license revocation proceeding, informal settlement may be made by written agreement of the parties and the Agency consenting to a suspension, civil penalty, or other intermediate sanction.**

**(3) Any informal disposition of a contested case, other than by default, must be in writing and signed by the party or parties to the case and the Agency.**

[(2)] **(4)** [When a party is interested in settling a case prior to the contested case hearing, the party should contact the Agency case presenter or other individual named in the notice of hearing who is scheduled to present the case for the Agency. Settlement negotiations do not serve as a basis for a postponement of the hearing, and participants should continue to prepare for hearing until they reach an agreement to settle and the Hearings Unit is so notified. An agreement to settle is reached when the participants have made an agreement to resolve the contested case and have agreed, orally or in writing, to the specific conditions of their agreement.] **A party interested in resolving a case before the contested case hearing should contact the person designated in the notice of hearing to present the case for the Agency. Settlement negotiations are not a basis for postponing the hearing and participants should continue to prepare for hearing until they reach an agreement to settle. An agreement to settle is reached when the participants have agreed to resolve all issues of the contested case and have agreed, orally or in writing, to all terms and conditions of the agreement.**

[(3)] **(5)** When an agreement to settle is reached before the **hearing** date [of hearing], the participants will [immediately notify the Hearings Unit. If such notice is given before the case summary due date, the case summary need not be filed by the participants that have reached an agreement to settle. The participants will file settlement documents with the Hearings Unit as soon as they are fully executed. If the participants have not filed fully executed documents with the Hearings Unit before the time set for hearing, at that time the participants must:

(a) Submit all necessary settlement documents, fully executed; or

(b) Put the settlement terms in writing and fully execute the written document as provided in subsection (8) of this rule.] **submit a joint written notice to the Hearings Unit that includes a synopsis of the substantive terms and conditions of the agreement. The administrative law judge will waive the case summary requirement and cancel the hearing upon receipt of the written notice of agreement to settle and synopsis of the**

**substantive terms and conditions of the agreement signed by the agency case presenter and respondent or respondent's authorized representative or counsel, if represented. The participants will file fully executed settlement documents with the Hearings Unit within 10 days after submitting written notice of the agreement to settle. If fully executed settlement documents are not filed within that period and no extension of time to submit those documents has been granted, the administrative law judge will set a new hearing date that is at least 14 days after the original hearing date unless the administrative law judge and participants agree to an earlier date. No further cancellations or postponements will be allowed based on a purported settlement and the case summary requirement will not be waived for the rescheduled hearing.**

*[(4) When the participants notify the Hearings Unit before a hearing that an agreement to settle has been reached, but fail to submit fully executed settlement documents before or at the time set for hearing and disagree on the record as to the specific terms of the agreement to settle, the administrative law judge may hold the hearing as scheduled if the participants agree or reschedule the hearing as soon as practicable, with the date being determined by the administrative law judge. Unless the administrative law judge and all participants agree, the new date of hearing will be no sooner than 14 days from the original date set for hearing. No further postponement will be allowed on the basis of a purported settlement and the case summary requirement will not be waived for the rescheduled hearing as provided in subsection (3) of this rule.]*

[(5)] **(6)** Fully executed settlement documents submitted to the Hearings Unit will not contain terms *[that]* the Agency lacks the authority to enforce or **to which the Agency** is not a party *[to]*, such as an agreement by *[the]* **a** claimant $[(s)]$  or complainant $[(s)]$  not to pursue legal action $[s]$  against **a** respondent $[(s)]$  other than the claim or complaint being settled.

[(6)] **(7)** Fully executed settlement documents submitted to the Hearings Unit will not contain provisions requiring the settlement terms to be confidential or requiring *[the]* **a** claimant $[(s)]$ , complainant $[(s)]$ , or the Agency to keep the settlement terms confidential.

[(7)] **(8)** Participants waive their right to a contested case hearing by their signatures on fully executed settlement documents.

[(8)] **(9)** When a contested case is resolved by informal disposition other than default (see OAR 839-050-0330), the administrative law judge will incorporate the settlement terms into a Final Order *[on]* **Incorporating** Informal Disposition (**"FOID"**). When an Order of Determination or Notice of Intent has been issued, but a Notice of Hearing has not been issued, the fully executed settlement document may be incorporated into a *[Final Order on Informal Disposition]* **FOID** by either the Administrator of the Wage and Hour Division or an administrative law judge.

(a) The Hearings Unit will deliver or mail a copy of a *[Final Orders on Informal Disposition]* **FOID** issued by an administrative law judge, and the Wage and Hour

Division will deliver or mail a copy of a [Final Order on Informal Disposition] **FOID** issued by the Administrator of the Wage and Hour Division, to each participant and[, *if applicable, to the*] participant's attorney of record.

(b) A [Final Order on Informal Disposition] **FOID** is not subject to ORS 183.470.

(c) A [Final Order on Informal Disposition] **FOID** is not subject to judicial review.

(d) Within 60 days after a [Final Order on Informal Disposition] **FOID** is issued, a participant may petition the Bureau of Labor and Industries to set aside the order on the ground that the informal disposition was obtained by fraud or duress.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 183.[415(5)]**417(3)**, 279.361, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820 & 659A.850