



---

## **COLORADO DIVISION OF LABOR STANDARDS AND STATISTICS** **INSTRUCTIONS FOR REQUESTING A SUBPOENA**

### **GENERAL INFORMATION**

- A subpoena is an order for a witness to appear at a hearing and/or produce evidence before a hearing.
- The requesting party must file a Request for Subpoena form with the Division.
  - The Division must receive the request at least two weeks before the hearing.
- The requesting party must demonstrate “good cause” for the subpoena to issue. In other words, they must show that the subpoena will result in relevant, non-repetitive evidence that is unavailable by other means.
- The requesting party must bear the cost of ensuring personal service of a granted subpoena on the individual or entity testifying or producing documents.
  - Personal service means personal delivery of the subpoena to its subject (*i.e.*, not mail or email).
  - Personal service must be made by an adult who is not involved with the appeal.
  - The person who completes service must fill out an affidavit of service (included with the subpoena).
  - The individual or entity subject to the subpoena may waive personal service by filling out a waiver of service (included with the subpoena).
  - The requesting party must ensure that *either* the completed and notarized affidavit of service *or* the waiver of service is submitted to the Division prior to the hearing.
- The requesting party also must provide a copy of the subpoena to the other party to the appeal.
- If the requesting party does not follow the Division’s subpoena process, the Hearing Officer may exclude the evidence or testimony ordered by the subpoena.
- Witnesses must participate in the hearing by telephone. The subpoena will include instructions for doing so. Witnesses appearing pursuant to a subpoena need not be provided reimbursement or compensation.

### **STEPS FOR REQUESTING AND SERVING A SUBPOENA**

#### **Step 1: Complete and submit the Request for Subpoena form.**

- You must use the Division’s Request for Subpoena form, found at: <https://cdle.colorado.gov/decisions-appeals-information>.
- The completed form can be submitted to the Division by mail, fax, email, or in person:

633 17<sup>th</sup> Street  
Denver, CO 80202  
Fax: (303) 318-8400  
Email: [cdle\\_LS\\_appeals@state.co.us](mailto:cdle_LS_appeals@state.co.us)
- The Division must receive your Request for Subpoena form at least two weeks before the hearing.
- Section A requests information about the party seeking a subpoena.
  - The email address, mailing address, and phone number should reflect the contact information for the person with whom the Division should communicate regarding the subpoena request.
- Section B requests information about the individual or entity who will receive the subpoena.
  - The subpoena can request the appearance of a witness at the hearing, the production of evidence prior to the hearing, or both. If you are asking the subpoena recipient to produce evidence, you must describe the desired evidence in detail.
- Section C requests information about why the request should be granted.
  - The party requesting the subpoena must convince the Hearing Officer that a subpoena would provide relevant, non-duplicative, and otherwise unavailable evidence.
- Section D is a signature and affirmation, to be completed by the person filling out the request form.



**Step 2: The Hearing Officer will consider and decide on the Request for Subpoena.**

- If the Hearing Officer approves the request, the Division will email or mail the subpoena to the requesting party (as selected by the requestor).
- The requesting party should plan to print as many as three copies of the subpoena:
  - One for the requestor to arrange to have served on the recipient;
  - One for the requestor to send to the other party to the appeal (if that's different from the above); and
  - One for the requestor to return to the Division with a completed Affidavit/Waiver of Service.
- If the Hearing Officer denies the Request for Subpoena, the Division will inform the requestor of the decision. At the hearing, the requestor may renew the request or object to the denial, for the record.

**Step 3: Serve the subpoena on the recipient and return an Affidavit of Service or Waiver of Service.**

- The requesting party is responsible for ensuring that the subpoena is personally served on the recipient *or* that the recipient has waived personal service.
  - Personal Service
    - Anyone over the age of 18 who isn't involved in the appeal (*i.e.*, who isn't a party or a party's representative) may personally serve the subpoena. Professional process servers and law enforcement can serve the subpoena, but they may charge a fee.
    - Service must be completed *no later than three business days prior to the hearing date*.
    - Service is made by: (1) delivering the subpoena directly to the recipient; (2) leaving a copy at the person's home, with any person over the age of 18 who is a member of the person's family; (3) leaving a copy at the person's usual place of business, with an agent or representative of the recipient; or (4) leaving a copy with the recipient's legally registered agent (usually only if an entity is being subpoenaed).
    - After service is complete, the person who served the subpoena must fill out and sign the affidavit of service (attached to the subpoena) and have it notarized.
  - Waiver of Service
    - The subject of the subpoena may agree to waive personal service by signing the waiver form (attached to the subpoena) and acknowledging receipt of the subpoena.
- The requesting party must ensure that *either* the completed and notarized affidavit of service *or* the waiver of personal service is submitted to the Division as soon as possible after service has been completed, but no later than the hearing date.

**Step 4: Provide a copy of subpoena to the other party or parties.**

- The requesting party must provide a copy of the subpoena to the other party or parties to the appeal.
- The requesting party must provide proof to the Division that it gave a copy of the subpoena to the other party prior to the hearing (*e.g.*, mail receipt, or copy of email). Failure to provide such proof may prevent the Hearing Officer from accepting the witness' evidence or testimony.

For additional information, please contact the Division at (303) 318-8442 or [cdle\\_LS\\_appeals@state.co.us](mailto:cdle_LS_appeals@state.co.us).

