

635-001-0070

Agency Representation by Employee

(1) Subject to the approval of the Attorney General, an officer or employee of the Department, designated by the Director, is authorized to represent the Department in contested case hearings concerning suspension from the Landowner Preference Program or the Master Hunter Program, suspension of certification as a Hunter Education Instructor, or suspension or revocation of licenses or tags under the Wildlife Violator Compact.

(2) The agency representative may not give legal advice or present legal argument on behalf of the agency.

(a) "Legal argument" includes arguments on:

(1) The jurisdiction of the agency to hear the contested case;

(2) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

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

(b) 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 statutes or rules to the facts in the contested case;

(b) Comparison of prior actions of the agency 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; and

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