

Text to be added in **bold**
Text to be deleted in *[italics]*

735-090-0120

Police Officer Unable to Appear at Hearing [*Official Duty Conflicts*]

(1) If a subpoenaed police officer is unable to appear at a hearing under ORS 813.410 due to **an officer's illness, vacation or** official duty conflicts, a [*scheduled*] hearing [*shall*] **will** be [*set*] **re-scheduled** as soon as practicable.

(2) DMV will rescind the suspension of the petitioner's driving privileges pending the outcome of the [*scheduled*] hearing conducted pursuant to ORS 813.440(1)(d).

(3) The DMV or OAH may receive notification of an **officer's illness, vacation or** official duty conflict before or after a **scheduled** hearing. Post hearing notification must be received by the DMV or OAH no later than 10 days after the hearing. Verification must be to the satisfaction of the DMV.

(4) An official duty conflict exists if the subpoenaed police officer is unable to attend the hearing due to any of the following conditions:

(a) Community caretaking pursuant to ORS 133.033;

(b) Court;

(c) Hazardous or impeding travel conditions;

(d) Participating in employer approved training;

(e) Physical incapacity; or

(f) Service in the U.S. Armed Forces, military reserves, National Guard or the organized militia.

(5) Nothing in this rule prevents the taking of evidence at the time of the originally scheduled hearing and continuing the hearing for the testimony of the unavailable police witness(es).

Stat. Auth.: ORS 183.341, 184.616, 813.410 & 813.440

Stats. Implemented: ORS 813.410 & 813.440

New Rule

735-090-0125

Original Hearing

The date of the original hearing, as used in ORS 813.440(1)(f), is the initial date that OAH scheduled a hearing to be held for a particular case, regardless of whether a hearing actually took place on that date.

Stat. Auth.: ORS 183.341, 184.616, 813.410 & 813.440

Stats. Implemented: ORS 813.410 & 813.440