



**DELEGATION OF AUTHORITY
FOR ADMINISTRATIVE REVIEW QUALIFICATION DETERMINATIONS**

Overview

The IDHS Office of General Counsel requests the Board of Firefighting Personnel Standards and Education (Board) reaffirm its delegation of authority to staff to make determinations concerning whether petitions for administrative review submitted under Ind. Code § 4-21.5-3-7 qualify for review.

Current Process

Following issuance of an order subject to review by the Board, a person may submit a petition for administrative review. These petitions are processed by IDHS staff, and if the petition qualifies for review, they are submitted to the Office of Administrative Law Proceedings for assignment of an administrative law judge who will conduct administrative proceedings on the matter. For matters that do not qualify for review (i.e. not timely filed, not concerning a matter the Board has jurisdiction over, or the petitioner does not have standing), staff will issue an order denying the request for review which itself is subject to administrative review.

Why Delegation is Necessary and Appropriate

Delegation is necessary and appropriate for the following reasons:

1. IDHS staff supports numerous boards and commissions who process requests for administrative review. All other boards and commissions supported by the IDHS have delegated the authority to both grant and deny requests for administrative review. Utilizing two different approaches to process requests for administrative review creates confusion and inefficiencies for staff.
2. By authorizing staff to make the determinations, decisions can be made more timely and will not be delayed until the next meeting of the Board. The ability to make quicker decisions is important as it permits proceedings to be heard by a third party neutral sooner. In many instances, delays in this process can create significant impact on the parties. Additionally, by delegating this authority to staff, this does not remove the Board from the process. The determination to deny a request for review itself is an appealable order and if a party wishes to dispute that determination, the matter then can be set for review before an administrative law judge and ultimately the Board.
3. Determinations on whether a petition for review qualifies for review under Ind. Code 4-21.5-3-7 are procedural in nature and generally are clear whether review should be granted. Staff review will be limited to whether the matter is an order within the Board's jurisdiction, whether it was filed within the appropriate time period, and whether the petitioner has standing.