Fast Facts 26

Driver Safety Administrative Hearing Process

STATE OF CALIFORNIA
DMV
Department of Motor Vehicles

Overview

When the Department of Motor Vehicles (DMV) takes an action against your driver's license (DL) you may be entitled to an administrative hearing. Administrative hearings conducted by DMV are separate from criminal hearings held in a court, and they differ in two main ways:

- They are held before a Driver Safety (DS) Hearing Officer instead of a judge.
- The standards used to admit and consider evidence are less strict than those of a criminal court.

A hearing is your opportunity to receive a fair and impartial review of the action being taken should you wish to contest it. Hearings must be requested within 10 days of receiving notice or 14 days from the date of the notice if the notice was mailed. Failure to make a request within this window will result in a forfeiture of your hearing rights.

Not all administrative hearings are the same. This is a general guide to the administrative hearing process. It will provide information to help you prepare for the hearing but, may not provide all the information you may need to prepare for your individual hearing. If you have any questions regarding how a hearing is conducted, contact the DS office listed in this publication.

Remember: Read all the documents that were personally provided or mailed to you by DMV. These documents explain the issues involved in your case, what deadlines you must meet, and your rights in the administrative hearing process. The hearing will be limited to the issues listed in the documents.

Why Do I Need a DMV Hearing?

The administrative hearing provides an opportunity to present relevant evidence or testimony on your behalf regarding an action taken or the intent to take action against your driving privilege by DMV. You may also have to appear in court for the same reason DMV is taking action against your driving privilege. Actions taken by the court are independent of any action taken by DMV.

What Are My Hearing Rights?

You have the right to:

- Be represented by an attorney or other representative, at your own expense.
- Review the evidence and cross examine the testimony of any witness for DMV.
- Testify on your own behalf.
- Cross-examine opposing witnesses.
- Subpoena witnesses and/or documents.
- Introduce evidence on your behalf.
- A full and fair consideration of the facts by an impartial person.
- A department review and/or judicial appeal of any adverse decision.

How Do I Review DMV's Evidence (Discovery)?

Call to request or submit a written request to review and obtain a copy of DMV's evidence regarding your case (known as discovery) at least **10 days** prior to the date of your hearing. In some cases, DMV automatically provides you with the evidence (discovery). If you do not request a hearing, you give up your right to review the evidence DMV will consider when making a decision in your case.

How Do I Obtain Records From Agencies or Have Witnesses Come to the Hearing?

You have the right to subpoena relevant records, documents, photos, etc. to be produced on your behalf at the administrative hearing.

Although your witness(es) may voluntarily attend your hearing, a subpoena protects your right under the law to compel the attendance of any witness(es). For any witness you subpoena on your behalf, you are required to pay all witness fees and mileage to the hearing location. If you know a witness requires special accommodation, contact DMV immediately to make arrangements.

Note: Subpoenas are available online at **dmv.ca.gov** and search for Driver Safety forms, or at any DS office. Someone other than you must serve the subpoena(s).

What Kind of Evidence Can I Provide on My Behalf?

Evidence you present **must** be relevant to your case and can be presented in the form of sworn documents, medical records, collision reports, photographs, or other relevant items. Evidence can also be sworn testimony taken under oath. On the date of your hearing, be prepared to bring any witness(es), or written evidence from any witness(es), who knows the specific issues involved in your case. Your witness(es) should be prepared to answer any questions raised by the hearing officer.

NOTE: Evidence presented on your behalf cannot be returned to you because it is part of the official administrative hearing record maintained by DMV.

What if I Need an Interpreter?

If you or a witness needs a sign or language interpreter, contact DMV immediately to make arrangements.

What if I Cannot Attend My Hearing or I Fail to Appear?

If you cannot attend your administrative hearing on the scheduled date and time, you **must** contact DMV prior to the hearing and within 10 working days of the time you know, or should have known, you need a continuance. You may have to file a written statement indicating the reasons you cannot appear. DMV may grant the continuance if you are not responsible for causing the delay and made a good faith attempt to prevent the delay. If a continuance is not granted and you do not attend your hearing, DMV will proceed with the hearing in your absence.

How and When Will I Be Notified of the Decision?

You will be notified in writing of the hearing officer's decision, even if you do not attend your hearing. The time it takes to make a decision depends on the issues being addressed, the amount of evidence, and witness testimony presented.

Can I Appeal DMV's Decision?

You may have the right to request a department review of the decision, as well as the right to appeal the decision to Superior Court. Requests for a department review, or an appeal of the decision in Superior Court, must be made within a certain time period depending on the laws affecting your case and a fee will be required. The time periods for appeal and other information concerning your specific appeal rights are provided on the notice advising you of the administrative hearing decision.

What Type of Decision Can Be Made?

Depending on the type of administrative hearing, a hearing officer may sustain (keep in effect), set aside (dismiss), end, or modify DMV's earlier decision. If a time period for an action against your driving privilege is specified in the *Vehicle Code* (VC), the hearing officer cannot change the length of the action.

NOTE: The *Administrative Procedures Act* (APA), found in *California Government Code* §§11400–11528, and VC §§14100–14112, govern DS hearings conducted by DMV. DS Disciplinary Guidelines can be found in the *California Code of Regulations* §110.04. The VC can be found at **leginfo.legislature.ca.gov**. Copies of the APA, VC, DS Disciplinary Guidelines, and subpoenas are available from DS Branch Office.

Driver Safety Office

For location and office hours, visit the Driver Safety Office page at **dmv.ca.gov/dsoffices**.

El Segundo
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