

Data Act Administrative Hearing Procedures

Appeals made pursuant to Health and Safety Code §128775 of Penalties assessed pursuant to Health and Safety Code §128770

As authorized by Health and Safety Code §128775, the hearing will be held before an employee of the Office of Statewide Health Planning and Development (OSHPD) appointed to serve as Hearing Officer.

OSHPD has adopted regulations governing the hearing procedures; these may be found in Title 22, CFR, §§97052-97054.

Scheduling the Hearing:

All hearings will be held in Sacramento at OSHPD, unless the hearing will be conducted by telephone or other electronic means (see below). The appellant will be notified of the hearing date and time at least 30 days in advance. Appellants may contact the Hearing Officer to request a schedule change if necessary; such requests must be made at least 10 business days before the scheduled hearing. Requests for schedule changes must be based upon good cause, as determined by the Hearing Officer, and additionally may be denied based on statutory deadlines or prejudice to the other party. Failure to appear at a scheduled hearing may result in a decision against the party.

Participation by Telephone or Other Electronic Means:

The Hearing Officer may plan to conduct a hearing by telephone or other electronic means. If so, either party may object; upon receipt of such an objection, the Hearing Office will schedule an in-person hearing in Sacramento. If the Hearing Officer does not initially plan to conduct a hearing by telephone or other electronic means, either party may so request; if both parties consent, the Hearing Officer may, but is not required to, conduct the hearing by telephone or electronic means. Both parties will be notified of the Hearing Officer's decision.

Consolidation of Hearings:

The Hearing Officer may, on their own determination or upon written request of one of the parties, as the Hearing Officer deems appropriate, consolidate for hearing or decision any number of appeals when the facts and circumstances are similar and no substantial right of any party will be prejudiced. All parties will be notified. Either party may request consolidation using the "REQUEST FOR CONSOLIDATION OF APPEALS PROCEEDINGS" form. Copies of the form may be obtained from the contact person listed on the notice of penalty assessment.

Recording the Hearing:

The hearing will be tape-recorded, or recorded by other electronic means, unless the appellant opts to provide a certified shorthand reporter at appellant's expense. If an appellant so chooses, it is their responsibility to notify the Hearing Officer and make all arrangements. The original of the transcript shall be provided directly to OSHPD. The non-appearance of a certified shorthand reporter will not be considered adequate grounds for cancelling or rescheduling a hearing.

Conduct of the Hearing:

The hearing will not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Testimony will be taken under oath. Hearings will be open to the public. Chapter 5 – Administrative Adjudication: Formal Hearing - of Part 1 of Division 3 of Title 2 of the Government Code is not applicable to the proceeding.

The hearing will be conducted in English. If a party or the party's witness does not proficiently speak English, a request for language assistance may be made and an interpreter will be provided. Such a request must be received by the Hearing Officer at least 10 business days before the hearing. The cost of providing an interpreter shall be paid by the requesting party unless otherwise directed by the Hearing Officer.

Documents and Other Hearing Exhibits:

Each party must provide copies of all proposed exhibits to the Hearing Officer and the other party at least 10 days in advance of the hearing. Copies may be sent by mail or e-mail. Additionally, each party should bring a hardcopy of each proposed exhibit to the hearing. It is suggested, but not required, that the documents be pre-marked as exhibits; if so, OSHPD shall use numerical designations and the appellant shall use alphabetical designations, and the exhibits should be accompanied by a table of contents or exhibits list. At the conclusion of the hearing, the Hearing Officer may hold the record open for submission of additional identified documents.

Settlement:

If a settlement is reached between the parties prior to the hearing, the Hearing Officer will be notified and no hearing will be conducted. If an appellant wishes to engage in settlement discussions, they should contact the appropriate OSHPD program manager; the name is on the notice of penalty assessment.

Contacting the Hearing Officer

All correspondence, including requests for a hearing, requests for consolidation, any questions about the hearing schedule or process, and all documents and hearing exhibits, should be addressed to:

Legal Office, Attn: Hearing Officer
Office of Statewide Health Planning and Development
2020 West El Camino Avenue
Sacramento, CA 95833

E-mail: HearingOfficer@OSHPD.CA.GOV

The Hearing Office may be reached by telephone at 916-326-3610.