

Information About Driver Safety Administrative Hearings

What is an administrative hearing?

In most circumstances where DMV orders a discretionary action against a person's driving privilege, that person has the right to a hearing before the department to contest the action and review the evidence supporting it. (A discretionary action is one where the law permits, but does not require, DMV to order an action). A person must request a hearing within ten days of receiving notice of the action against the driving privilege. The hearing proceedings are tape recorded and are conducted by telephone or in person. The hearing is held before a Driver Safety Hearing Officer of the department.

At the hearing, the driver is informed of the legal grounds for the action, and has the opportunity to review and challenge the evidence of the department, and to present evidence, witnesses and testimony to persuade the department to modify or rescind the action. The rules that control these hearings are found in the Vehicle Code, the Government Code (Administrative Procedures Act) and in various Appellate and Supreme Court rulings. Following the hearing, the Driver Safety Hearing Officer will make a decision to uphold (sustain), modify, or rescind (set aside) the DMV action.

What are my legal rights at a DMV administrative hearing?

You have the right to be represented by an attorney or other representative, at your own expense. Representation by an attorney is not required. You have the right to review the evidence and to cross examine the testimony of any witnesses for the department, and to present evidence and witnesses on your own behalf, as well as the right to testify on your own behalf.

Following the hearing, you have the right to be provided a decision in writing. Should the decision resulting from the hearing be against you, you have the right to request the department to conduct an administrative review of the decision, as well as the right to appeal the decision to superior court.

On or after January 1, 2003, new legislation authorizes DMV to collect a \$120 fee for a Departmental Review following an Administrative Per Se (APS) hearing pursuant to Vehicle Code §§13353 and 13353.2. Questions regarding this fee should be directed to the Driver Safety office where your hearing was conducted.

Requests for the administrative review or to appeal the decision in court must be made within a certain time period dependent on the type of hearing and as described in the Vehicle Code. These time periods and other specific information concerning your rights will be stated on the notice containing the hearing decision.

How do I schedule a hearing?

Check the notice you received advising you of the action against your driving privilege. If the notice indicates you have the right to a hearing, you have ten days following receipt of the notice to request a hearing.

You may do so by writing to or telephoning one of the department's [Driver Safety Branch Offices](#). Be sure to identify yourself by your full name, your driver license number, and your date of birth. You will also be asked to verify your correct mailing address.

What if I need an interpreter?

If you or a witness require a sign or language interpreter, immediately contact the [Driver Safety Branch Office](#) to request that an interpreter be provided for the hearing.

What if I do not appear at the hearing?

If you request a hearing and do not attend the hearing, the department will proceed with the case against you.

Will the hearing location be accessible to persons with disabilities?

Hearing locations are accessible to persons with disabilities. However, you should check with the department in advance to assure accessibility.

In addition, if you know persons who plan to attend who have special needs that require reasonable accommodation, please contact the department as soon as possible, so that arrangements can be made.