

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS



OAH RULES OF PRACTICE AND PROCEDURE

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS
TITLE 1, CHAPTERS 28 AND 29

CHAPTER 28
RULES OF PRACTICE AND PROCEDURE

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2801	APPLICABILITY OF DISTRICT OF COLUMBIA SUPERIOR COURT RULES OF CIVIL PROCEDURE
2802	BEGINNING A CASE AT OAH
2803	BEGINNING A CIVIL FINE CASE – NOTICE OF INFRACTION
2804	BEGINNING A CIVIL FINE CASE – NOTICE OF VIOLATION
2805	BEGINNING A CASE BY REQUESTING A HEARING
2806	IDENTIFICATION OF PARTIES
2807	SUBSTITUTION, ADDITION, AND INTERVENTION OF PARTIES
2808	REPRESENTATION BY ATTORNEYS AND LAW STUDENTS
2809	WITHDRAWAL OF APPEARANCE BY AN ATTORNEY
2810	OTHER AUTHORIZED REPRESENTATION
2811	FILING OF PAPERS AND EXHIBITS; REPRESENTATIONS TO OAH
2812	HOW TO SERVE A PAPER
2813	CALCULATING DEADLINES
2814	ANSWERS IN CIVIL FINE CASES
2815	DEFAULTS IN CIVIL FINE CASES
2816	INVOLUNTARY DISMISSALS AND DEFAULTS
2817	MOTIONS PROCEDURE
2818	VOLUNTARY DISMISSALS OF CASES
2819	SUMMARY ADJUDICATION
2820	MEDIATION
2821	DISCOVERY, EXPERT, AND OPINION TESTIMONY
2822	BURDEN OF PROOF
2823	HEARINGS AND EVIDENCE
2824	SUBPOENAS FOR WITNESSES AND FOR DOCUMENTS AT HEARINGS
2825	CONSOLIDATION AND SEPARATE HEARINGS
2826	LANGUAGE INTERPRETATION
2827	COURTROOM PROCEDURE
2828	RECORDINGS AND TRANSCRIPTS
2829	SANCTIONS
2830	REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER
2831	APPEALS
2832	CLERICAL MISTAKES
2833	PAYMENT PLANS IN CIVIL INFRACTIONS ACT CASES
2834	ABATEMENT COST REQUESTS
2835	INABILITY OF AN ADMINISTRATIVE LAW JUDGE TO PROCEED
2836	RECUSAL; ETHICS COMPLIANCE

2837	AMICUS CURIAE OR “FRIEND OF THE COURT
2838	CHIEF ADMINISTRATIVE LAW JUDGE RESPONSIBILITIES
2899	DEFINITIONS

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RULES FOR DCPS & OSSE, DFHV, RENTAL HOUSING,
PUBLIC SECTOR WORKERS’ COMPENSATION, PUBLIC BENEFITS, AND
UNEMPLOYMENT INSURANCE CASES

<u>SECTION</u>	<u>SECTION TITLE</u>
2900	DCPS AND OSSE HEARINGS – SCOPE
2901	DCPS STUDENT DISCIPLINE CASES – REFERRALS
2902	DCPS STUDENT DISCIPLINE CASES – HEARINGS
2903	DCPS STUDENT DISCIPLINE CASES – DECISIONS
2904	DCPS STUDENT DISCIPLINE CASES – RECONSIDERATION
2905	OSSE CONTESTED RESIDENCY CASES – REFERRALS
2906	OSSE CONTESTED RESIDENCY CASES – BEGINNING A CASE
2907	OSSE CONTESTED RESIDENCY CASES – HEARINGS
2908	OSSE CONTESTED RESIDENCY CASES – FINAL ORDERS
2909	DCPS AND OSSE CASES – CONFIDENTIALITY OF THE RECORD
2910	DFHV HEARINGS – SCOPE
2911	DFHV – BEGINNING A CIVIL FINE CASE
2912	DFHV – ANSWERS IN CIVIL FINE CASES
2913	DFHV – DEFAULTS IN CIVIL FINE CASES
2920	RENTAL HOUSING CASES – SCOPE
2921	RENTAL HOUSING CASES – BEGINNING A CASE
2922	RENTAL HOUSING CASES – PARTIES
2923	RENTAL HOUSING CASES – SENDING NOTICE
2924	RENTAL HOUSING CASES – SERVICE
2925	RENTAL HOUSING CASES – CALCULATING DEADLINES
2926	RENTAL HOUSING CASES – CONCILIATION, ARBITRATION, AND MEDIATION
2927	RENTAL HOUSING CASES – SUBSTITUTION OR ADDITION OF PARTIES
2928	RENTAL HOUSING CASES – INTERVENORS
2929	RENTAL HOUSING CASES – AMENDMENT OF PETITIONS, CONSOLIDATION OF PETITIONS AND EXPANDING THE SCOPE OF A PROCEEDING
2930	RENTAL HOUSING CASES – HEARINGS
2931	RENTAL HOUSING CASES – RENT ADMINISTRATOR’S SHOW CAUSE ORDERS
2932	RENTAL HOUSING CASES – BURDEN OF PROOF

2933 RENTAL HOUSING CASES – PAPERS FILED WITH THE RAD, CASD,
OR OTHER AGENCIES

2934 RENTAL HOUSING CASES – SUBPOENAS AND DISCOVERY

2935 RENTAL HOUSING CASES – REPRESENTATION

2936 RENTAL HOUSING CASES – APPEALS BEFORE A FINAL ORDER IN
RENT STABILIZATION CASES

2937 RENTAL HOUSING CASES – INITIAL DECISIONS AND FINAL ORDERS

2938 RENTAL HOUSING CASES – REQUESTING RECONSIDERATION, A
NEW HEARING, OR RELIEF FROM A FINAL ORDER

2939 RENTAL HOUSING CASES – APPEALS

2940 RENTAL HOUSING CASES – OFFICIAL RECORD OF A PROCEEDING

2941 RENTAL HOUSING CASES – ATTORNEY’S FEES IN RENT
STABILIZATION CASES

2942 RENTAL HOUSING CASES – INTEREST ON SECURITY DEPOSITS IN
RENT STABILIZATION CASES

2950 PUBLIC SECTOR WORKERS’ COMPENSATION CASES – SCOPE

2951 PUBLIC SECTOR WORKERS’ COMPENSATION — BEGINNING A CASE

2952 PUBLIC SECTOR WORKERS’ COMPENSATION — SCHEDULING

2953 PUBLIC SECTOR WORKERS’ COMPENSATION — PRE-HEARING
CONFERENCE

2954 PUBLIC SECTOR WORKERS’ COMPENSATION — DISCOVERY

2955 PUBLIC SECTOR WORKERS’ COMPENSATION — HEARINGS

2956 PUBLIC SECTOR WORKERS’ COMPENSATION — ATTORNEY’S FEES

2970 PUBLIC BENEFITS CASES – SCOPE

2971 PUBLIC BENEFITS CASES – BEGINNING A CASE

2972 PUBLIC BENEFITS CASES – REPRESENTATION BY ATTORNEYS

2973 PUBLIC BENEFITS CASES – REPRESENTATION BY NON-ATTORNEYS

2974 PUBLIC BENEFITS CASES-ADMINISTRATIVE REVIEWS

2975 PUBLIC BENEFITS CASES – SUBPOENAS

2976 PUBLIC BENEFITS CASES-HEARING DATES

2977 PUBLIC BENEFITS CASES – HEARINGS AND EVIDENCE

2978 PUBLIC BENEFITS CASES – DEADLINES

2979 PUBLIC BENEFITS CASES – REQUESTING RECONSIDERATION, A
NEW HEARING, OR RELIEF FROM A FINAL ORDER

2980 UNEMPLOYMENT INSURANCE CASES – SCOPE

2981 UNEMPLOYMENT INSURANCE CASES – BEGINNING A CASE

2982 UNEMPLOYMENT INSURANCE CASES – REPRESENTATIVES

2983 UNEMPLOYMENT INSURANCE CASES – FILING OF PAPERS

2984 UNEMPLOYMENT INSURANCE CASES – SUBPOENAS

2985 UNEMPLOYMENT INSURANCE CASES – HEARINGS AND EVIDENCE

2986 UNEMPLOYMENT INSURANCE CASES – REQUESTING
RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL
ORDER

2999 DEFINITIONS

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**



**CROSSWALK OF OAH RULES – CHAPTER 28
EFFECTIVE DECEMBER 1, 2024**

FORMER OAH RULE

CURRENT OAH RULE

2800 SCOPE OF CHAPTER	2800 SCOPE OF CHAPTER
2800.1	2800.1
2800.2	2800.2
2800.3	2800.3
2800.4	2800.4
2800.5	2800.5
2800.6	2800.6
2800.7	2800.7
2801 APPLICABILITY OF DISTRICT OF COLUMBIA SUPERIOR COURT RULES OF CIVIL PROCEDURE	2801 APPLICABILITY OF DISTRICT OF COLUMBIA SUPERIOR COURT RULES OF CIVIL PROCEDURE
2801.1	2801.1
2802 BEGINNING A CASE AT OAH	2802 BEGINNING A CASE AT OAH
2802.1	2802.1
2802.2	2802.2
2802.3	2802.3
2803 BEGINNING A CIVIL FINE CASE	2803 BEGINNING A CIVIL FINE CASE – NOTICE OF INFRACTION
2803.1	2803.1
2803.2	2803.2
2803.3	2803.3
2803.4	2803.4
2803.5	2803.5(a)
2803.6	2803.5(a)(1)
2803.7	2803.5(a)(2)
No prior rule	2803.5(b)
No prior rule	2803.5(c)
No prior rule	2803.5(d)
2803.8	2804.5(a) [see below]
2803.9	2803.6

Bolded citations of OAH Rules indicate that there is a substantive difference between the prior version of the rule and the current OAH Rule.

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2803.10	2803.7
2803.11	2911.1 [see below]
2803.12	2911.2 [see below]
2803 BEGINNING A CIVIL FINE CASE	2804 BEGINNING A CIVIL FINE CASE – NOTICE OF VIOLATION
2803.1	2804.1
2803.2	2804.2
2803.3	2804.3
2803.4	2804.4
2803.8	2804.5(a)
No prior rule	2804.5(b)
No prior rule	2804.5(c)
No prior rule	2804.5(d)
2803.9	2804.6
2803.10	2804.7
2808 BEGINNING A CASE BY REQUESTING A HEARING	2805 BEGINNING A CASE BY REQUESTING A HEARING
2808.1	2805.1
2808.2 (a) – (f)	2805.2 (a) – (f)
2808.3	2805.3
2808.4	2805.4
2808.5	2805.5
2808.6	2805.6
2810 IDENTIFICATION OF PARTIES	2806 IDENTIFICATION OF PARTIES
2810.1	2806.1
2810.2	2806.2
2810.3	2806.3
2810.4	2806.4
2810.5	2806.5
2816 SUBSTITUTION, ADDITION, AND INTERVENTION OF PARTIES	2807 SUBSTITUTION, ADDITION, AND INTERVENTION OF PARTIES
2816.1	2807.1
2816.2	2807.2
2816.3	2807.3
2816.4	2807.4
2816.5	2807.5
No prior rule	2807.6

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2833 REPRESENTATION BY ATTORNEYS AND LAW STUDENTS	2808 REPRESENTATION BY ATTORNEYS AND LAW STUDENTS
2833.1	2808.1
2833.2 (a) – (i)	2808.2 (a) – (i)
2833.3	2808.3
2833.4 (a) – (h)	2808.4 (a) – (h)
No prior rule	2808.4 (i)
2833.5 (a) – (f)	2808.5 (a) – (f)
2833.6	2808.6
2833.7 (a) – (d)	2808.7 (a) – (d)
2833.8	2808.8
2833.9	2808.9
2833.10	2808.10
2833.11	2808.11
2834 WITHDRAWAL OF APPEARANCE BY AN ATTORNEY	2809 WITHDRAWAL OF APPEARANCE BY AN ATTORNEY
2834.1 (a) – (b)	2809.1 (a) – (b)
2834.2 (a) – (b)	2809.2 (a) – (b)
2834.3	2809.3
2834.4	2809.4
2835 REPRESENTATION BY NON - ATTORNEYS	2810 OTHER AUTHORIZED REPRESENTATION
2835.1	2810.1
2835.2	2810.2
2835.3	2810.3
2835.4	2810.4
2835.5	2810.5
2835.6	2810.6
2835.7	2810.7
2835.8	2810.8
2835.9	2810.9
2835.10	2810.10
2835.11	2810.11
2835.12	2810.12
2835.13	2810.13
2835.14	2810.14

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2809 FILING OF PAPERS	2811 FILING OF PAPERS AND EXHIBITS; REPRESENTATIONS TO OAH
2809.1	2811.1
2809.2	2811.2
2809.3; 2841.9	2811.3 (a) – (b)
2809.4 (a) – (c)	REPEALED
No prior rule	2811.4
2841.10	2811.5
No prior rule	2811.6
2841.5	2811.7
2841.3	2811.8 (a)
No prior rule	2811.8 (b)
2841.4	2811.9
2841.6 (a) – (c)	2811.10 (a) – (c)
2841.6 (d)	2811.11
No prior rule	2811.12
2841.7	2811.13
2841.11	2811.14
2814.1 (a) – (d)	2811.15 (a) – (d)
2814.2	2811.16
2811 HOW TO SERVE A PAPER	2812 HOW TO SERVE A PAPER
2811.1	2812.1
2811.2	2812.2
2811.3	2812.3
2811.4 (a) – (c)	2812.4 (a) – (c)
2811.5	2812.5
2811.6	2812.6
2811.7	2812.7
2811.8	2812.8
2811.9	2812.9
2811.10	2812.10
2811.11	2812.11
2841.12	2812.12
2841.13	2812.13
2841.14	2812.14
2841.15	2812.15
2841.16	2812.16
2841.17	2812.17

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2812 CALCULATING DEADLINES	2813 CALCULATING DEADLINES
2812.1	2813.1
2812.3	2813.2
2813.3	2813.3
2812.4 (a) – (c)	2813.4 (a) – (c)
No prior rule	2813.5 (a)
No prior rule	2813.5 (b)
2812.5	2813.5 (c)
No prior rule	2813.5 (d)
2812.6	2813.6
2812.7	2813.7
2804 ANSWERS IN CIVIL FINE CASES	2814 ANSWERS IN CIVIL FINE CASES
2804.1	2814.1
2804.2	2814.2
2804.3	2814.3
2804.4	2814.4
2804.5	2814.5
2804.6	2814.6
2804.7	2814.7
2804.8	2814.8
2804.9	2814.9
2804.10	2814.10
2804.11	2814.11
2804.12	2814.12
2805 DEFAULTS IN CIVIL FINE CASES	2815 DEFAULTS IN CIVIL FINE CASES
2805.1	2815.1
2805.5 (a) – (b)	2815.2 (a) – (b)
2805.6	2815.3
2805.7 (a) – (b)	2815.4 (a) – (b)
2805.7	2815.5
2818 INVOLUNTARY DISMISSALS AND DEFAULTS	2816 INVOLUNTARY DISMISSALS AND DEFAULTS
2818.1	2816.1
2818.2	2816.2
2818.3	2816.3
2818.4	2816.4

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2813 MOTIONS PROCEDURE	2817 MOTIONS PROCEDURE
2813.1	2817.1
2813.2	2817.2 (a) – (d)
2813.3	2817.3
2813.4	2817.4
2813.5 (a) – (e)	2817.5
2813.6	2817.6
2813.7; 2813.8	2817.7
No prior rule	2817.8
2817 VOLUNTARY DISMISSALS OF CASES	2818 VOLUNTARY DISMISSALS OF CASES
2817.1	2818.1
2817.2	2818.2
2817.3	2818.3
2817.4 (a) – (c)	2818.4 (a) – (c)
No prior rule	2818.5 (a) – (b)
No prior rule	2818.6
No prior rule	2818.7
2819 SUMMARY ADJUDICATION	2819 SUMMARY ADJUDICATION
2819.1	2819.1
No prior rule	2819.2
No prior rule	2819.3
No prior rule	2819.4
2815 MEDIATION	2820 MEDIATION
2815.1	2820.1
2815.2	2820.2
2815.3	2820.3
2815.4	2820.4
2815.5 (a) – (b)	2820.5 (a) – (b)
2815.6	2820.6
2815.7	2820.7
2815.8	2820.8
2815.9	2820.9
2825 DISCOVERY	2821 DISCOVERY, EXPERT, AND OPINION TESTIMONY
2825.1	2821.1
2825.2	2821.2
2825.3	2821.3
2825.4	2821.4
2825.5	2821.5

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No prior rule	2821.6 (a) – (d)
No prior rule	2821.7
No prior rule	2821.8
2822 BURDEN OF PROOF	2822 BURDEN OF PROOF
2822.1	2822.1
2822.2 (a) – (d)	2822.2 (a) – (d)
2822.3	2822.3
2822.5	2822.4
2821 HEARINGS AND EVIDENCE	2823 HEARINGS AND EVIDENCE
2821.1	2823.1
2821.2 (a) – (b)	2823.2 (a) – (b)
2821.3	2823.3
2821.4	2823.4 (a)
No prior rule	2823.4 (b)
No prior rule	2823.4 (c)
No prior rule	2823.4 (d)
No prior rule	2823.4 (e)
No prior rule	2823.4 (f)
2821.5	2823.5
2821.6	2823.6
2821.7	2823.7
2821.9	2823.8
2821.10	2823.9
2821.11	2823.10
2821.12	2823.11
2821.13	2823.12
2821.14	2823.13
2821.15	2823.14
2821.16	2823.15
2824 SUBPOENAS FOR WITNESSES AND FOR DOCUMENTS AT HEARINGS	2824 SUBPOENAS FOR WITNESSES AND FOR DOCUMENTS AT HEARINGS
2824.1	2824.1
2824.2	2824.2
2824.3	2824.3
2824.4	2824.4
2824.5	2824.5
2824.6	2824.6
2824.7	2824.7
2824.8	2824.8

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2824.9 (a) – (f)	2824.9 (a) – (f)
2824.10 (a) – (c)	2824.10 (a) – (c)
2824.11	2824.11
2824.12	2824.12
2824.13 (a) – (f)	2824.13 (a) – (f)
2824.14	2824.14
2820 CONSOLIDATION AND SEPARATE HEARINGS	2825 CONSOLIDATION AND SEPARATE HEARINGS
2820.1 (a) – (b)	2825.1 (a) – (b)
2820.1	2825.2
2820.2	2825.3
2823 LANGUAGE INTERPRETATION	2826 LANGUAGE INTERPRETATION
2823.1	2826.1
2823.2	2826.2
2823.3	2826.3
2823.4	2826.4
2838 COURTROOM PROCEDURE	2827 COURTROOM PROCEDURE
2838.1	2827.1
2838.2	2827.2
2838.3	2827.3
2838.4	2827.4
2838.5	2827.5
2838.6	2827.6
2838.7	2827.7
2838.8	2827.8
2827 TRANSCRIPTS; CITATION AND COSTS	2828 RECORDINGS AND TRANSCRIPTS
2827.1	2828.1
2827.2	2828.2
2827.3	2828.3
2827.4	2828.4
2827.5	2828.5
2827.6	2828.6
2826 SANCTIONS	2829 SANCTIONS
2826.1	2829.1

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2828 REQUESTING RECONSIDERATION, A NEW HEARING OR RELIEF FROM A FINAL ORDER	2830 REQUESTING RECONSIDERATION, A NEW HEARING OR RELIEF FROM A FINAL ORDER
2828.1	2830.1
2828.2	2830.2
2828.3	2830.3 (a)
No prior rule	2830.3 (b)
2828.4	2830.4
2828.5 (a) – (e)	2830.5 (a) – (e)
2828.6	2830.6
2828.7	2830.7
2828.8	2830.8
2828.9	2830.9
2828.10 (a) – (g)	2830.10 (a) – (e)
2828.10 (h)	2830.11
2828.11	2830.12
2828.12	2830.13
2828.13	2830.14
2828.14 (a) – (c)	2830.15 (a) – (c)
No prior rule	2830.16
2830 APPEALS	2831 APPEALS
2830.1	2831.1
2830.2	2831.2
2830.3	2831.3
2830.4	2831.4
2829 CLERICAL MISTAKES	2832 CLERICAL MISTAKES
2829.1	2832.1
2829.2	2832.2
2829.3	2832.3
2806 PAYMENT PLANS IN CIVIL INFRACTIONS ACT CASES	2833 PAYMENT PLANS IN CIVIL INFRACTIONS ACT CASES
2806.1	2833.1
2806.2	2833.2
2806.3	2833.3
2806.4	2833.4
2807 ABATEMENT COST REQUESTS	2834 ABATEMENT COST REQUESTS
2807.1	2834.1
2807.2	2834.2
2807.3	2834.3 (a) – (c)

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No prior rule	2834.4
2807.4 (a) – (b)	2834.5 (a) – (b)
2831 INABILITY OF AN ADMINISTRATIVE LAW JUDGE TO PROCEED	2835 INABILITY OF AN ADMINISTRATIVE LAW JUDGE TO PROCEED
2831.1	2835.1
2831.2	2835.2
2831.3	2835.3
2832 RECUSAL; ETHICS COMPLIANCE	2836 RECUSAL; ETHICS COMPLIANCE
2832.1	2836.1
2832.2	2836.2
No prior rule	2836.3 (a) – (e)
No prior rule	2836.4 (a) – (d)
No prior rule	2836.5 (a) – (d)
No prior rule	2836.6
2837 AMICUS CURIAE OR “FRIEND OF THE COURT”	2837 AMICUS CURIAE OR “FRIEND OF THE COURT”
2837.1	2837.1
2840 CHIEF ADMINISTRATIVE LAW JUDGE RESPONSIBILITIES	2838 CHIEF ADMINISTRATIVE LAW JUDGE RESPONSIBILITIES
2840.1	2838.1
2899 GENERAL DEFINITIONS	2899 DEFINITIONS
Agency	Agency
Civil Infractions Act	Civil Infractions Act
Clerk	Clerk
Commercial carrier	Commercial carrier
Government	District of Columbia or District
Electronic Signature	Signature
No prior definition	Exhibit
No prior definition	In-person proceeding
Litter Control Administration Act	Litter Control Administration Act
No prior definition	Motion
Act	OAH Establishment Act
Paper	Paper
Party	Party
Presiding Administrative Law Judge	Presiding Administrative Law Judge
No prior definition	Respondent
Signature Image	Signature
No prior definition	Teleconferencing
No prior definition	Videoconferencing

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**



CROSSWALK OF OAH RULES – CHAPTER 29
EFFECTIVE DECEMBER 1, 2024

FORMER OAH RULE

CURRENT OAH RULE

2900 DCPS HEARINGS - SCOPE	2900 DCPS AND OSSE HEARINGS - SCOPE
2900.1	2900.1
2900.2	2900.2
2900.3	2900.3
2901 DCPS STUDENT DISCIPLINE CASES – REFERRALS	2901 DCPS STUDENT DISCIPLINE CASES – REFERRALS
2901.1 (a) – (c)	2901.1 (a) – (e)
2901.2	2901.2 (a) – (d)
2902 DCPS STUDENT DISCIPLINE CASES - HEARINGS	2902 DCPS STUDENT DISCIPLINE CASES – HEARINGS
2902.1	2902.1
2902.2	2902.2
2902.3	2902.3
2902.4	2902.4
2902.5	2902.5
2902.6	2902.6
2902.7	2902.7
2902.8	2902.8
2903 DCPS STUDENT DISCIPLINE CASES - DECISIONS	2903 DCPS STUDENT DISCIPLINE CASES – DECISIONS
2903.1	2903.1
2903.2	2903.2
2903.3	2903.3
2903.4	2903.4
2903.5	2903.5
2903.6	2903.6

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2904 DCPS STUDENT DISCIPLINE CASES - RECONSIDERATION	2904 DCPS STUDENT DISCIPLINE CASES – RECONSIDERATION
2904.1	2904.1
2904.2 (a) – (d)	2904.2 (a) – (d)
2904.3	2904.3 (a) – (c)
2904.3	2904.4
2905 DCPS CONTESTED RESIDENCY CASES - REFERRALS	2905 OSSE CONTESTED RESIDENCY CASES – REFERRALS
2905.1	2905.1
2906 DCPS CONTESTED RESIDENCY CASES – BEGINNING A CASE	2906 OSSE CONTESTED RESIDENCY CASES – BEGINNING A CASE
2906.1	2906.1
2907 DCPS CONTESTED RESIDENCY CASES - HEARINGS	2907 OSSE CONTESTED RESIDENCY CASES - HEARINGS
2907.1	2907.1
2907.2	2907.2
2907.3	2907.3
2908 DCPS CONTESTED RESIDENCY CASES – FINAL ORDERS	2908 OSSE CONTESTED RESIDENCY CASES – FINAL ORDERS
2908.1	2908.1
2909 DCPS CASES – CONFIDENTIALITY OF THE RECORD	2909 DCPS AND OSSE CASES – CONFIDENTIALITY OF THE RECORD
2909.1 (a) – (e)	2909.1 (a) – (e)
2910 DFHV – NO PRIOR RULE	2910 DFHV HEARINGS – SCOPE
No prior rule	2910.1
No prior rule	2910.2
2803 BEGINNING A CIVIL FINE CASE	2911 DFHV – BEGINNING A CIVIL FINE CASE
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2803.12	2911.2
2804 ANSWERS IN CIVIL FINE CASES	2912 DFHV – ANSWERS IN CIVIL FINE CASES
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2804.3	2912.2
2804.5	2912.3
2804.7	2912.4
2804.8	2912.5
2804.9	2912.6
2804.13	2912.7

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2805 DEFAULTS IN CIVIL FINE CASES	2913 DFHV – DEFAULTS IN CIVIL FINE CASES
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2805.7 (a) – (b)	2913.2 (a) – (b)
2805.7	2913.3
2920 RENTAL HOUSING CASES - SCOPE	2920 RENTAL HOUSING CASES – SCOPE
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2920.2	2920.2
2921 RENTAL HOUSING CASES – BEGINNING A CASE	2921 RENTAL HOUSING CASES – BEGINNING A CASE
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No prior rule	2921.2
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2922 RENTAL HOUSING CASES – PARTIES	2922 RENTAL HOUSING CASES – PARTIES
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2922.2	2922.2
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2922.4	2922.6
No prior rule	2922.7
2923 RENTAL HOUSING CASES – SENDING NOTICE	2923 RENTAL HOUSING CASES – SENDING NOTICE
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2923.4	2923.4
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2924 RENTAL HOUSING CASES – SERVICE	2924 RENTAL HOUSING CASES – SERVICE
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No prior rule	2924.2
2925 RENTAL HOUSING CASES – CALCULATING DEADLINES	2925 RENTAL HOUSING CASES – CALCULATING DEADLINES
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2927 RENTAL HOUSING CASES – SUBSTITUTION OR ADDITION OF PARTIES	2927 RENTAL HOUSING CASES – SUBSTITUTION OR ADDITION OF PARTIES
2927.1	2927.1
2927.2	2927.2
2928 RENTAL HOUSING CASES – INTERVENORS	2928 RENTAL HOUSING CASES – INTERVENORS
2928.1	2928.1
2929 RENTAL HOUSING CASES – AMENDMENT OF PETITIONS, CONSOLIDATION OF PETITIONS AND EXPANDING THE SCOPE OF A PROCEEDING	2929 RENTAL HOUSING CASES – AMENDMENT OF PETITIONS, CONSOLIDATION OF PETITIONS AND EXPANDING THE SCOPE OF A PROCEEDING
2929.1	2929.1
2929.2	2929.2
2929.3	2929.3
2929.4	2929.4
2929.5	2929.5
2929.6	2929.6
2929.7	2929.7
2930 RENTAL HOUSING CASES – HEARINGS	2930 RENTAL HOUSING CASES – HEARINGS
2930.1	2930.1
2930.2	2930.2
2931 RENTAL HOUSING CASES – RENT ADMINISTRATOR'S SHOW CAUSE ORDERS	2931 RENTAL HOUSING CASES – RENT ADMINISTRATOR'S SHOW CAUSE ORDERS
2931.1	2931.1
2931.2	2931.2
2931.3	2931.3
2932 RENTAL HOUSING CASES – BURDEN OF PROOF	2932 RENTAL HOUSING CASES – BURDEN OF PROOF
2932.1	2932.1
2932.1	2932.2 (a) – (b)
2932.3	2932.2 (c)
2932.4	2932.2 (d)
2932.5	2932.2 (e)

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2932.2	2932.4
2933 RENTAL HOUSING CASES – PAPERS FILED WITH THE RAD OR OTHER AGENCIES	2933 RENTAL HOUSING CASES – PAPERS FILED WITH THE RAD, CASD, OR OTHER AGENCIES
2933.1	2933.1
2933.2	2933.2 (a) – (e)
2934 RENTAL HOUSING CASES – SUBPOENAS	2934 RENTAL HOUSING CASES – SUBPOENAS AND DISCOVERY
2934.1	2934.1
2934.2	2934.2
2934.2	2934.3
2935 RENTAL HOUSING CASES – REPRESENTATION	2935 RENTAL HOUSING CASES – REPRESENTATION
2935.1	2935.1
2935.2	2935.2
2935.3	2935.3
2935.4	2935.4
2936 RENTAL HOUSING CASES – APPEALS BEFORE A FINAL ORDER	2936 RENTAL HOUSING CASES – APPEALS BEFORE A FINAL ORDER IN RENT STABILIZATION CASES
2936.1	2936.1
2936.2	2936.2
2936.3 (a) – (b)	2936.3 (a) – (b)
2936.4	2936.4
2936.5	2936.5
2936.6	2936.6
2937 RENTAL HOUSING CASES – FINAL ORDERS	2937 RENTAL HOUSING CASES – INITIAL DECISIONS AND FINAL ORDERS
No prior rule	2937.1
No prior rule	2937.2
No prior rule	2937.3
2937.1	2937.4
2938 RENTAL HOUSING CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER	2938 RENTAL HOUSING CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER
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No prior rule	2938.2
2938.2	2938.3 (a)

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2936 RENTAL HOUSING CASES – APPEALS BEFORE A FINAL ORDER	2939 RENTAL HOUSING CASES – APPEALS
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2939 RENTAL HOUSING CASES – OFFICIAL RECORD OF A PROCEEDING	2940 RENTAL HOUSING CASES – OFFICIAL RECORD OF A PROCEEDING
2939.1	2940.1 (a) – (d)
2939.2	2940.2
2940 RENTAL HOUSING CASES – ATTORNEY’S FEES	2941 RENTAL HOUSING CASES – ATTORNEY’S FEES IN RENT STABILIZATION CASES
2940.1	2941.1
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2940.2	2941.4
2941 RENTAL HOUSING CASES – INTEREST ON SECURITY DEPOSITS	2942 RENTAL HOUSING CASES – INTEREST ON SECURITY DEPOSITS IN RENT STABILIZATION CASES
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2941.3	2942.3
2950 PUBLIC SECTOR WORKERS COMPENSATION CASES – SCOPE	2950 PUBLIC SECTOR WORKERS’ COMPENSATION CASES – SCOPE
2950.1	2950.1
2950.2	2950.2
2950.3 (a) – (d)	2950.3 (a) – (d)
2951 PUBLIC SECTOR WORKERS’ COMPENSATION — BEGINNING A CASE	2951 PUBLIC SECTOR WORKERS’ COMPENSATION — BEGINNING A CASE
2951.1 (a) – (g)	2951.1 (a) – (h)
2951.2	2951.2
2951.3	2951.3
2951.4	2951.4
2951.5	2951.5

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2952 PUBLIC SECTOR WORKERS' COMPENSATION — SCHEDULING	2952 PUBLIC SECTOR WORKERS' COMPENSATION — SCHEDULING
2952.1	2952.1 (a) – (g)
2952.2 (a) – (e)	2952.2 (a) – (e)
2952.3	2952.3
2953 PUBLIC SECTOR WORKERS' COMPENSATION — PRE-HEARING CONFERENCE	2953 PUBLIC SECTOR WORKERS' COMPENSATION — PRE-HEARING CONFERENCE
2953.1 (a) – (f)	2953.1 (a) – (f)
2953.2	2953.2
2953.3 (a) – (f)	2953.3 (a) – (g)
2954 PUBLIC SECTOR WORKERS' COMPENSATION — DISCOVERY	2954 PUBLIC SECTOR WORKERS' COMPENSATION — DISCOVERY
2954.1	2954.1
2954.2 (a) – (g)	2954.2 (a) – (g)
2954.3	2954.3
2954.4 (a) – (e)	2954.4 (a) – (e)
2954.5	2954.5
2954.6	2954.6
2954.7	2954.7
2954.8 (a) – (e)	2954.8 (a) – (e)
2954.9	2954.9
2955 PUBLIC SECTOR WORKERS' COMPENSATION — HEARINGS	2955 PUBLIC SECTOR WORKERS' COMPENSATION — HEARINGS
2955.1	2955.1
2955.2	2955.2
No prior rule	2955.3
2956 PUBLIC SECTOR WORKERS' COMPENSATION — ATTORNEY'S FEES	2956 PUBLIC SECTOR WORKERS' COMPENSATION — ATTORNEY'S FEES
2956.1 (a) – (c)	2956.1 (a) – (c)
2956.2 (a) – (e)	2956.2 (a) – (e)
2956.3	2956.3
2970 PUBLIC BENEFITS CASES – SCOPE	2970 PUBLIC BENEFITS CASES – SCOPE
2970.1 (a) – (m)	2970.1 (a) – (o)
2970.2	2970.2
2970.3	2970.3
2970.4	2970.4
2970.5	2970.5
2970.6	2970.6

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2971 PUBLIC BENEFITS CASES – BEGINNING A CASE	2971 PUBLIC BENEFITS CASES – BEGINNING A CASE
2971.1	2971.1
2971.2	2971.2
2971.3	2971.3 (a) – (c)
2971.4 (a) – (g)	2971.4 (a) – (g)
2971.5 (a) – (f)	2971.5 (a) – (f)
2971.6 (a) – (e)	2971.6 (a) – (e)
2971.7	2971.7
2971.8	2971.8
2971.9	2971.9
2971.10	2971.10
2971.11	2971.11
2972 PUBLIC BENEFITS CASES – REPRESENTATIVES	2972 PUBLIC BENEFITS CASES – REPRESENTATION BY ATTORNEYS
No prior rule	2972.1
No prior rule	2972.2
No prior rule	2972.3
No prior rule	2972.4
No prior rule	2972.5
No prior rule	2972.6
2972 PUBLIC BENEFITS CASES – REPRESENTATIVES	2973 PUBLIC BENEFITS CASES – REPRESENTATION BY NON-ATTORNEYS
2972.1	2973.1
2972.2	2973.2
2972.3 (a) – (f)	2973.3 (a)– (g)
2972.4	2973.4
2972.5	2973.5
2973 PUBLIC BENEFITS CASES – ADMINISTRATIVE REVIEWS	2974 PUBLIC BENEFITS CASES – ADMINISTRATIVE REVIEWS
2973.1	2974.1
2973.2	2974.2
2973.3	2974.3
2973.4	2974.4
2974 PUBLIC BENEFITS CASES – SUBPOENAS	2975 PUBLIC BENEFITS CASES – SUBPOENAS
2974.1	2975.1
2974.2	2975.2
2974.3	2975.3
2974.4	2975.4

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2974.5	2975.5
2975 PUBLIC BENEFITS CASES – HEARING DATES	2976 PUBLIC BENEFITS CASES – HEARING DATE
2975.1	2976.1
2975.2	2976.2
2975.3	2976.3
2975.4	2976.4
2976 PUBLIC BENEFITS CASES – HEARINGS AND EVIDENCE	2977 PUBLIC BENEFITS CASES – HEARINGS AND EVIDENCE
2976.1	2977.1
2976.2	2977.2
2976.3	2977.3
2976.4	2977.4
2976.5 (a) – (g)	2977.5 (a) – (g)
2976.6	2977.6
2976.7 (a) – (d)	2977.7
2976.8	2977.8
2976.9	2977.9
2977 PUBLIC BENEFITS CASES – DEADLINES	2978 PUBLIC BENEFITS CASES – DEADLINES
No prior rule	2978.1
2978 PUBLIC BENEFITS CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER	2979 PUBLIC BENEFITS CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER
2978.1	2979.1
2980 UNEMPLOYMENT INSURANCE CASES – SCOPE	2980 UNEMPLOYMENT INSURANCE CASES – SCOPE
2980.1	2980.1
2980.2	2980.2
2980.3	2980.3
2980.4	2980.4
2980.5	2980.5
2981 UNEMPLOYMENT INSURANCE CASES – BEGINNING A CASE	2981 UNEMPLOYMENT INSURANCE CASES – BEGINNING A CASE
2981.1	2981.1
2981.2	2981.2
2981.3	2981.3

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2982 UNEMPLOYMENT INSURANCE CASES – REPRESENTATIVES	2982 UNEMPLOYMENT INSURANCE CASES – REPRESENTATIVES
2982.1	2982.1
2982.2	2982.2
2983 UNEMPLOYMENT INSURANCE CASES – FILING OF PAPERS	2983 UNEMPLOYMENT INSURANCE CASES – FILING OF PAPERS
2983.1	2983.1
2983.2	2983.2
2984 UNEMPLOYMENT INSURANCE CASES – SUBPOENAS	2984 UNEMPLOYMENT INSURANCE CASES – SUBPOENAS
2984.1 (a) – (b)	2984.1 (a) – (b)
2984.2	2984.2
2984.3	2984.3
2985 UNEMPLOYMENT INSURANCE CASES – HEARINGS AND EVIDENCE	2985 UNEMPLOYMENT INSURANCE CASES – HEARINGS AND EVIDENCE
2985.1	2985.1
2985.2	2985.2
2986 UNEMPLOYMENT INSURANCE CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER	2986 UNEMPLOYMENT INSURANCE CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER
2986.1	2986.1
2999 DEFINITIONS	2999 DEFINITIONS
2999.1	2999.1
2999.2	2999.2
No prior definition	CASD
Commission	Commission
Contested residency case	Contested residency case
No prior definition	Conversion and Sale Act
No prior definition	Conversion and Sale Administrator
DCPS	DCPS
No prior definition	DDS
No prior definition	DFHV
No prior definition	DFHV Act
No prior definition	DHCF
No prior definition	DHS
Disciplinary file	Disciplinary file
No prior definition	District of Columbia or District
No prior definition	DOEE
No prior definition	DOES

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No prior definition	Homeless Services Reform Act
No prior definition	Limited scope representation
No prior definition	ORM
No prior definition	OSSE
RAD	RAD
Rent Administrator	Rent Administrator
Rental Housing Act	Rental Housing Act
Rental housing cases	Rental housing cases
School day	School day
Service Provider	Service Provider
Student discipline case	Student discipline case.

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2800 **SCOPE OF CHAPTER**

- 2800.1 This Chapter contains general rules of procedure for the Office of Administrative Hearings (OAH). Chapter 29 of these Rules contains rules for cases referred to OAH by the District of Columbia Public Schools (DCPS) and the District of Columbia Office of the State Superintendent of Education (OSSE); cases involving the Department of For-Hire Vehicles (DFHV) Establishment Act; rental housing; public sector workers' compensation cases; public benefits cases; and unemployment insurance cases.
- 2800.2 These Rules do not extend or limit the jurisdiction of OAH.
- 2800.3 These Rules shall be used to secure the fair, speedy, and inexpensive determination of every case.
- 2800.4 No Administrative Law Judge shall maintain standing, chamber, or other individual rules. However, an Administrative Law Judge may issue procedural orders in individual cases.
- 2800.5 These Rules (Chapters 28 and 29) may be cited as "OAH Rule____," without reference to the District of Columbia Municipal Regulations (DCMR).
- 2800.6 These Rules control all procedures at OAH. No procedural rules adopted by any other District of Columbia government agency apply in cases at OAH.
- 2800.7 These Rules apply to all filings in new or pending cases on or after December 1, 2024.

2801**APPLICABILITY OF DISTRICT OF COLUMBIA SUPERIOR COURT
RULES OF CIVIL PROCEDURE****2801.1**

Where these Rules do not address a procedural issue, an Administrative Law Judge may refer to the District of Columbia Superior Court Rules of Civil Procedure as guidance to decide the issue.

2802 BEGINNING A CASE AT OAH

2802.1 The District of Columbia (District) may begin a case at OAH by filing a complete and legible copy of a Notice of Infraction or Notice of Violation as described in §§ 2803, 2804, and 2811.

2802.2 Any party also may begin a case at OAH by filing a request for a hearing as described in § 2805.

2802.3 Chapter 29 contains Rules for how to begin cases referred to OAH by DCPS and OSSE; cases involving DFHV; rental housing cases; public sector workers' compensation cases; public benefits cases; and unemployment insurance cases.

2803 BEGINNING A CIVIL FINE CASE – NOTICE OF INFRACTION

- 2803.1 Section 2803 establishes procedures for cases in which the District seeks payment of a civil fine in accordance with the Civil Infractions Act (D.C. Official Code §§ 2-1802.01 –.05). In the event a civil infraction case is within OAH jurisdiction but has not had rules for procedure established by other law or regulation, Section 2803 shall also apply.
- 2803.2 The District shall file a Notice of Infraction, as authorized by law, at OAH when it is seeking a civil fine under § 2803. Notices of Infraction shall be individually submitted to OAH for filing in accordance with § 2811. The District shall also comply with §§ 2803.5 through 2803.7 when filing a Notice of Infraction under the Civil Infractions Act.
- 2803.3 The District shall only serve a copy of the Notice of Infraction on the Respondent as authorized by the Civil Infractions Act, or other applicable law.
- 2803.4 If a Respondent files an answer before the District files a Notice of Infraction, OAH shall open a case. The Administrative Law Judge may require the District to file the original Notice of Infraction.
- 2803.5 (a) If the District serves a Notice of Infraction to the Respondent by first-class mail, it shall not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it mailed the Notice of Infraction. When it files the Notice of Infraction, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, verifying that the United States Postal Service (USPS) did not return the Notice of Infraction to the District.
- (1) If the USPS returns a Notice of Infraction to the District after it has filed the affidavit required by this Subsection, the District shall notify OAH by filing a new affidavit, on a form approved by the Chief Administrative Law Judge.
- (2) If the USPS returns the Notice of Infraction to the District, the District may file proof of any alternative service of the Notice of Infraction.
- (b) If the District serves a Notice of Infraction on the Respondent by electronic service, it shall not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it emailed the Notice of Infraction. When it files the Notice of Infraction, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, attesting why service at the recipient email address is reasonably calculated to give actual notice to the Respondent. An affidavit, with supporting documentation, stating that the Respondent or Respondent’s agent provided the District with

their recipient email address; that the recipient email address was used for successful communication with Respondent within the past six (6) months; or that the email address was established for the registered agent of the Respondent in the District's corporate registration records, will create a presumption that electronic service to that address was valid.

- (c) If the District serves a Notice of Infraction on the Respondent by personal service, it shall not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it served the Notice of Infraction. If the District serves a Notice of Infraction to the Respondent by personal service (hand-delivery), or by delivery to the Respondent's or other person's last known home or business address, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, providing specific facts from which the presiding ALJ can determine that the person served was either the Respondent (in the case of personal service) or a person of suitable age and discretion residing with or employed by the Respondent (in the case of delivery to their home or business).
- (d) If the District serves a Notice of Infraction on the Respondent by conspicuous posting, it shall not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it posted the Notice of Infraction. If the District serves a Notice of Infraction by posting the notice in accordance with D.C. Official Code § 2-1802.05(b), the District shall also file an affidavit, on a form approved by the Chief Administrative Law Judge, affirming that the identity or location of the property owner is unknown.

2803.6 When the District files a Notice of Infraction, it shall file a copy of all exhibits it expects to offer at any hearing in the case and shall provide a copy of each exhibit to the Respondent. An Administrative Law Judge may allow the District to use exhibits that it did not file or provide in accordance with this Subsection if there is no prejudice to the Respondent.

2803.7 OAH may refuse to accept for filing or later dismiss any Notice of Infraction that does not comply with the applicable law or these Rules.

2804 BEGINNING A CIVIL FINE CASE – NOTICE OF VIOLATION

- 2804.1 Section 2804 establishes procedures for cases in which the District seeks payment of a civil fine in accordance with the Litter Control Administration Act (D.C. Official Code §§ 8-801 – 812). Section 2804 shall also apply to cases seeking payment of a civil fine in accordance with the Fare Evasion Decriminalization Amendment Act of 2018 (D.C. Official Code § 35-254(a)(2)(A)) or the Marijuana Possession Decriminalization Amendment Act of 2014 (D.C. Official Code § 48–1211, *et. seq.*).
- 2804.2 The District shall file a Notice of Violation, as authorized by law, at OAH, when it is seeking a civil fine. Notices of Violation shall be individually submitted to OAH for filing in accordance with § 2811. The District shall also comply with §§2804.5 through 2804.7 when filing a Notice of Violation under the Litter Control Administration Act.
- 2804.3 The District shall only serve a copy of the Notice of Violation on the Respondent as authorized by the Litter Control Administration Act, or other applicable law.
- 2804.4 If a Respondent files an answer before the District files a Notice of Violation, OAH shall open a case. The Administrative Law Judge may require the District to file the original Notice of Violation.
- 2804.5
- (a) If the District serves a Notice of Violation on the Respondent by certified mail, it shall not file the Notice of Violation until at least fifteen (15) calendar days after the date that it mailed the Notice of Violation. If the District serves a Notice of Violation to a Respondent by certified mail, the District shall file a copy of a USPS electronic return receipt or other proof that the USPS delivered the Notice of Violation to the Respondent’s address consistent with the requirements of the Litter Control Administration Act.
 - (b) If the District serves a Notice of Violation on the Respondent by first-class mail, it shall not file the Notice of Violation until at least fifteen (15) calendar days after the date that it mailed the Notice of Violation. If the District serves a Notice of Violation to a Respondent by first-class mail, the District shall file proof that the USPS delivered the Notice of Violation to the Respondent’s address consistent with the requirements of the Litter Control Administration Act, which may include filing an affidavit, on a form approved by the Chief Administrative Law Judge, verifying that the United States Postal Service (USPS) did not return the Notice of Violation to the District.
 - (c) If the District serves a Notice of Violation on the Respondent by personal service, it shall not file the Notice of Violation until at least fifteen (15) calendar days after the date that it served the Notice of Violation. If the District serves a Notice of Violation by personal service (hand-delivery) to

the owner, the owner's authorized agent, the building superintendent, the operator of equipment, or any other responsible individual at the premises, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, providing specific facts from which the presiding ALJ can determine the identity of the person served.

- (d) If the District serves a Notice of Violation on the Respondent by conspicuous posting mail, it shall not file the Notice of Violation until at least fifteen (15) calendar days after the date that it posted the Notice of Violation. If the District serves a Notice of Violation by posting the notice in a conspicuous place on the premises in violation, the District also shall file an affidavit or other evidence providing specific facts regarding the time and location of posting.

2804.6 When it files a Notice of Violation, the District shall file a copy of all exhibits it expects to offer at any hearing in the case and shall provide a copy of each exhibit to the Respondent. An Administrative Law Judge may allow the District to use exhibits that it did not file or provide in accordance with this Subsection if there is no prejudice to the Respondent.

2804.7 OAH may refuse to accept for filing or later dismiss any Notice of Violation that does not comply with the applicable law or these Rules.

2805 BEGINNING A CASE BY REQUESTING A HEARING

- 2805.1 Unless a statute or these Rules describe a different way to begin a case, a party seeking a hearing at OAH shall file a request for hearing in writing.
- 2805.2 The hearing request shall not have to follow any specific format. The Clerk's Office shall make blank forms to request a hearing available. A hearing request shall contain the following information:
- (a) A short description of the dispute;
 - (b) A description of what the party wants the judge to do;
 - (c) Any key dates that are involved;
 - (d) A copy of any ruling or decision that is being disputed or appealed;
 - (e) The party's full name, mailing address, email address, and telephone number; and
 - (f) If known, the full name, mailing address, email address, and telephone number of every other party involved in the dispute.
- 2805.3 Parties shall pay close attention to any deadlines for filing hearing requests. The deadlines are set by statute, regulations, or agency rules other than these Rules, and not by OAH.
- 2805.4 Any hearing request to appeal a Child Support Services Division (CSSD) enforcement action shall include a copy of an Order of Condemnation, if any, or a copy of a CSSD notice describing the enforcement action.
- 2805.5 Any hearing request to appeal a proposed tax assessment, other than a proposed real property tax assessment, shall be filed with OAH and a copy served on the District of Columbia Office of Tax and Revenue. The hearing request shall state the type of tax (for example, personal, business, or franchise), tax year(s), and amount of tax appealed. The hearing request shall include a copy of the proposed tax assessment.
- 2805.6 Any hearing request to appeal a decision concerning a Certificate of Need shall be filed with OAH and a copy sent to the Director of the State Health Planning and Development Agency (SHPDA) in the Department of Health. SHPDA shall transfer the agency record of the proceedings to OAH within thirty (30) calendar days of service of the request for hearing.

2806 IDENTIFICATION OF PARTIES

- 2806.1 Any paper filed at OAH shall contain the name, mailing address, telephone number, and email address, if any, of the filer. After a case is assigned a case number, any paper filed in that case shall contain the case number.
- 2806.2 Any paper filed at OAH by an attorney or other representative shall identify the represented party and shall contain the District of Columbia Bar number, if any, of the attorney.
- 2806.3 A party, attorney, or representative shall notify the Clerk and all other parties in writing of any change in mailing address, telephone number, or email address previously provided to OAH within three (3) calendar days of the change.
- 2806.4 The most recent contact information provided by a party, attorney, or other representative under this Section shall be considered correct. A party or representative who does not keep a mailing and/or an email address current may fail to receive orders and may lose a case as a result.
- 2806.5 The Clerk may reject, or an Administrative Law Judge may strike, any paper that does not comply with this Section.

2807 SUBSTITUTION, ADDITION, AND INTERVENTION OF PARTIES

- 2807.1 Except when a District agency is redesignated or ceases to exist, after proper notice and an opportunity to be heard, an Administrative Law Judge may substitute a person or entity for a named party or may add parties to a case.
- 2807.2 Anyone who has an interest in the subject matter of a pending case and contends that the representation of his or her interest is inadequate may file a motion to intervene. After proper notice and an opportunity to be heard, an Administrative Law Judge may allow an interested person or entity to intervene.
- 2807.3 If an Administrative Law Judge grants a motion for leave to intervene, the intervenor may participate to the extent allowed by the Administrative Law Judge.
- 2807.4 No person or entity may intervene as a co-Petitioner with the District in any enforcement action where the District seeks a fine unless a statute allows it.
- 2807.5 A person or entity to which the District has properly delegated a governmental function may request to intervene, but may not be substituted for the District.
- 2807.6 In the case where a District agency is redesignated or ceases to exist, the Clerk shall substitute the successor agency for the predecessor agency, consistent with the relevant statutory authority.

2808**REPRESENTATION BY ATTORNEYS AND LAW STUDENTS**

2808.1 An attorney may represent any party before OAH. Unless otherwise provided by statute or these Rules, only attorneys who are active members in good standing of the District of Columbia Bar, or who are authorized to practice law in the District of Columbia pursuant to Rule 49(c) of the District of Columbia Court of Appeals, may appear before OAH as a representative of a party.

2808.2 An attorney who is not a member of the District of Columbia Bar, and who is not authorized to practice law in the District of Columbia pursuant to Rule 49(c) of the District of Columbia Court of Appeals, may appear before OAH either under § 2810 or after the filing and granting of a motion to appear *pro hac vice*, in which the attorney shall declare under penalty of perjury that:

- (a) I have not applied for admission *pro hac vice* in more than five (5) cases in OAH or in the courts of the District of Columbia during this calendar year. I have applied for admission *pro hac vice* in OAH and in the courts of the District of Columbia _____ (list number) times previously in this calendar year;
- (b) I am a member in good standing of the bar of the highest court(s) of the State(s) of _____ (list all states);
- (c) There are no disciplinary complaints pending against me for violation of the rules of the courts of those states (or describe all pending complaints);
- (d) I am not currently suspended or disbarred for disciplinary reasons from practice in any court;
- (e) I do not practice or hold myself out to practice law in the District of Columbia;
- (f) I am familiar with OAH's Rules found at 1 DCMR 28 and 29;
- (g) I am applying for admission *pro hac vice* for the following reason(s):
_____ (list all reasons);
- (h) I acknowledge the jurisdiction of OAH and the courts of the District of Columbia over my professional conduct, and agree to be bound by the District of Columbia Court of Appeals Rules of Professional Conduct, in this matter, if I am admitted *pro hac vice*; and
- (i) I have informed my client that I am not a member of the District of Columbia Bar, and my client has consented to my representation in this case.

2808.3 For good cause shown, the presiding Administrative Law Judge may revoke the *pro hac vice* admission of any attorney.

2808.4 Current law students who have successfully completed forty-two (42) credit hours of law school may appear before OAH. An Administrative Law Judge may terminate a law student's representation under this Subsection at any time, for any reason, without notice or hearing. A law student practicing under this Subsection shall:

- (a) Be enrolled in a law school approved by the American Bar Association;
- (b) Have the consent and oversight of a supervising attorney assigned to the law student;
- (c) Sign and file a Notice of Appearance in the case with the supervising attorney;
- (d) Have the written permission of the client, which shall be filed in the record;
- (e) Not file any paper unless the law student and supervising attorney sign it;
- (f) Not appear at any proceeding without the supervising attorney;
- (g) Neither ask for nor receive a fee of any kind for any services provided under this rule, except for the payment of any regular salary made to the law student;
- (h) Comply with any limitations ordered by the presiding Administrative Law Judge; and
- (i) Not have been denied admission to practice before the District of Columbia Court of Appeals pursuant to its Rule 48.

2808.5 An attorney supervising a law student who appears pursuant to § 2808.4 shall:

- (a) Be an active member in good standing of the District of Columbia Bar;
- (b) Assume full responsibility for supervising the law student;
- (c) Sign and file a Notice of Appearance in the case with the law student;
- (d) Assist the law student in preparation of the case, to the extent necessary in the supervising lawyer's professional judgment to ensure that the law student's participation is effective on behalf of the person represented;
- (e) Appear at all proceedings with the law student; and

- (f) Review and sign any paper filed by the law student.
- 2808.6 The District of Columbia Rules of Professional Conduct shall govern the conduct of all attorneys appearing before OAH, in addition to these Rules.
- 2808.7 The Chief Administrative Law Judge or presiding Administrative Law Judge may enter an order restricting the practice of any attorney appearing before OAH for good cause. The restrictions may include, without limitation:
- (a) Disqualification from a particular case;
 - (b) Suspension or disqualification from practice before OAH;
 - (c) A requirement that an attorney obtain ethics or other professional training or counseling; or
 - (d) A requirement that an attorney appear only when accompanied by another attorney with particular skills or a particular level of experience.
- 2808.8 The attorney shall be given notice and opportunity to be heard either before the imposition of a restriction, or as soon thereafter as is practicable.
- 2808.9 An Administrative Law Judge's authority under § 2808.7 is limited to restricting the practice of an attorney in a pending case based on the conduct of the attorney in that case. Nothing in this Section limits the authority of the Chief Administrative Law Judge to enter a separate order restricting an attorney's practice before OAH.
- 2808.10 Any attorney appearing before OAH in a representative capacity under this Section shall provide, under his or her signature, the attorney's District of Columbia bar number, office address, and telephone number. Persons appearing (or applying to appear) under §§ 2808.2 or 2808.4 shall state, immediately under their signature, the Subsection under which they are appearing (or applying to appear), their office address, and telephone number. Persons appearing under § 2808.2 shall state the jurisdiction of their admission and shall provide the bar number, if any, from that jurisdiction, and their office address, and telephone number.
- 2808.11 An attorney representing a party may testify only as permitted by Rule 3.7 of the District of Columbia Rules of Professional Conduct.

2809 WITHDRAWAL OF APPEARANCE BY AN ATTORNEY

2809.1 An attorney may withdraw an appearance before a hearing date has been set if:

- (a) Another attorney simultaneously enters or has already entered an appearance on behalf of the client; and
- (b) The attorney files a consent to the withdrawal that the client has signed.

2809.2 If a hearing date has been set, or if the client's written consent is not obtained, or if the client is not represented by another attorney, an attorney shall move to withdraw an appearance and receive permission from the presiding Administrative Law Judge to withdraw from the case. Unless the client is represented by another attorney or the motion is made orally in front of the client and the Administrative Law Judge, the attorney shall certify that:

- (a) The attorney has served the client a notice advising the client to obtain other counsel, or if the client intends to represent himself or herself, or intends to object to the withdrawal, to notify the Administrative Law Judge in writing within fifteen (15) calendar days of service of the notice or before the next hearing date, whichever is earlier; and
- (b) The attorney has served the client with a copy of the motion with a certificate of service listing the client's last known address.

2809.3 Except when an Administrative Law Judge has granted an oral motion to withdraw in the presence of the client, the order granting permission for the attorney to withdraw shall be served on the client. If no new counsel has entered an appearance or the client has not notified the Administrative Law Judge of an intention to represent himself or herself, the order shall instruct the client to arrange promptly for new counsel or be prepared to represent himself or herself.

2809.4 The presiding Administrative Law Judge may deny an attorney's motion to withdraw if the withdrawal would unduly delay the case, be unduly prejudicial to any party, or otherwise not be in the interests of justice.

2810 OTHER AUTHORIZED REPRESENTATION

- 2810.1 An individual may represent himself or herself in proceedings before OAH.
- 2810.2 Any person representing a party as permitted by this Section shall obtain the consent of the party.
- 2810.3 A family member or domestic partner may represent a party provided that person does not accept compensation in any form.
- 2810.4 In addition to an attorney authorized by § 2808, an authorized agency employee may represent an agency before OAH.
- 2810.5 If required by law, an Administrative Law Judge shall permit a party to be represented by another person who is not an attorney.
- 2810.6 An authorized officer, director, partner, or employee may represent a corporation, partnership, limited partnership, or other private legal entity before OAH.
- 2810.7 An individual or any representative of any entity listed in § 2810.6 may represent a party if the party has or had a contractual relationship with that individual or entity that is substantially related to the subject matter of the case (such as a landlord/tenant relationship in a civil fine case or owner/property manager relationship) and that relationship existed before the case arose.
- 2810.8 Section 2982 contains additional Rules for representation in unemployment compensation cases.
- 2810.9 Sections 2972 and 2973 contain additional Rules for representation in public benefits cases.
- 2810.10 Section 2935 contains additional Rules for representation in rental housing cases.
- 2810.11 Any person authorized by the United States Tax Court to represent a party before that court may represent a party before OAH in any case arising under D.C. Official Code § 2-1831.03(b)(4), and on the same basis as would be permitted by the United States Tax Court.
- 2810.12 The Chief Administrative Law Judge or presiding Administrative Law Judge may enter an order restricting the practice of any non-attorney representative appearing at OAH.
- 2810.13 The non-attorney representative shall be given notice and opportunity to be heard either before the imposition of a restriction under § 2810.12, or as soon thereafter as is practicable.

2810.14

An Administrative Law Judge's authority under § 2810.12 is limited to restricting the practice of a non-attorney representative in a pending case based on the conduct of the non-attorney representative in that case. Nothing in this Section limits the authority of the Chief Administrative Law Judge to enter a separate order restricting a non-attorney representative's practice before OAH.

2811 FILING OF PAPERS; REPRESENTATIONS TO OAH

- 2811.1 A “paper” means any pleading, Notice of Infraction, Notice of Violation, motion, exhibit, witness list, brief, or any other written submission filed with OAH.
- 2811.2 Any paper filed at OAH shall be complete, legible, and signed by a party or a party’s representative.
- 2811.3 To file any paper at OAH, a person shall bring; mail; email to oah.filing@dc.gov; submit via the eFiling portal; or have the paper delivered to the Clerk’s Office during regular business hours from 9:00 a.m. to 5:00 p.m. on a business day.
- (a) A paper is filed on the day the Clerk’s Office receives it during business hours, except as provided in §§ 2811.4, 2811.5, and 2811.6.
- (b) This Section permits any party to file papers by email with OAH or via the eFiling portal and the District to file data electronically. It also permits OAH to serve orders and notices by e-mail. The filing of any paper by email or via the eFiling portal following the procedures set forth in this Section constitutes filing for all purposes under these Rules.
- 2811.4 When initiating a civil fine enforcement action, the District shall file all Notices of Infraction or Notices of Violation through electronic means. Only one Notice of Infraction or Notice of Violation shall be submitted per communication. The electronic submission of multiple Notices of Infraction or Notices of Violation in a single, combined PDF is not permitted. Petitioners seeking to initiate multiple requests for hearing under § 2805 shall also submit each separate request individually, with one request per communication.
- 2811.5 The filing date for an email filing received in the correct OAH email box before 5:00 p.m. on any OAH business day shall be the date it is received. The filing date for an email filing received at other times shall be the next day that the Clerk’s Office is open for business. The date and time recorded in the correct OAH email box shall be conclusive proof of when an email filing was received.
- 2811.6 The filing date for a paper received and date-stamped through the eFiling portal before 5:00 pm on any OAH business day shall be the date it is received, which the Clerk’s Office shall communicate by email through the eFiling portal. The filing date for an eFiling portal paper received at other times shall be the next day that the Clerk’s Office is open for business. The date and time recorded on the eFiling portal date stamp shall be conclusive proof of when the paper was filed.
- 2811.7 A party filing any paper by email or by the eFiling portal is responsible for any delay, disruption, or interruption of electronic signals, as well as for the legibility and completeness of the transmitted image, and accepts the risk that the paper may not be filed.

- 2811.8 (a) All papers, documentary exhibits, and photographic exhibits to be filed by email or by the eFiling portal shall be in a read-only, portable document format (PDF), such as a certified PDF or a PDF/A. Parties submitting documents created using fillable PDF forms provided by OAH are responsible for converting forms into read-only PDF format prior to submission. Parties that use OAH forms for filing comply with the requirements of this subsection. All filed papers shall be attached to an email and not contained in the body of the email itself.
- (b) Audio and video exhibits filed with a paper shall be filed on a flash drive with the Clerk's Office; by email; via eFiling portal; or other electronic platform approved by the Clerk's Office. All audio and video exhibits shall be in mp4 format.
- 2811.9 OAH may reject any email filings that do not conform to this Section.
- 2811.10 Pursuant to § 2806, every paper filed by email or via eFiling portal shall contain:
- (a) The name, mailing address, telephone number, and email address of the person filing it;
- (b) The case number assigned by OAH, or a statement that a case number has not yet been assigned; and
- (c) A brief description of the paper (for example, "request for hearing in a Medicaid matter," "motion for new hearing date for an unemployment hearing," "exhibits/documents for hearing in rental housing case").
- 2811.11 A filing that does not contain the information in § 2811.10 is subject to rejection. A cover page that can be used to satisfy this requirement is available at OAH. The "subject" line of the email shall also contain a brief description of the paper.
- 2811.12 If a paper filed by email or via eFiling portal is rejected, the party shall be notified by email. A rejected paper does not constitute a filing at OAH.
- 2811.13 Every filing, including papers filed by email or via the eFiling portal, shall contain a signature. A paper filed by email by an unrepresented party, that does not contain a signature as required by this Subsection, shall not be rejected on that basis alone.
- 2811.14 The certification requirement of § 2811.15 shall apply to all papers filed by email and via the eFiling portal.
- 2811.15 A party or representative filing a paper with OAH certifies in good faith that the party or representative:

- (a) Has read the paper;
- (b) Is not presenting it for any improper purpose, such as to harass, to cause unnecessary delay, or to increase the cost of litigation needlessly;
- (c) Any legal contentions are warranted by existing law or a good faith argument to change existing law; and
- (d) Any factual contentions have or are likely to have evidentiary support.

2811.16 If, after notice and an opportunity to respond, an Administrative Law Judge determines that an attorney or representative has violated this Section, the Administrative Law Judge may impose sanctions, including those authorized by §§ 2808.7 and 2810.12.

2812 HOW TO SERVE A PAPER

- 2812.1 “Service” of a paper or to “serve” a paper means to send or deliver the paper as set forth in this Section.
- 2812.2 Every paper filed at OAH shall be served on the other parties or their attorneys or representatives no later than the day it is filed with OAH. Exceptions may be identified in these Rules, by statute, or by OAH order.
- 2812.3 Unless otherwise ordered by an Administrative Law Judge or agreed by the parties, service shall be made by delivering a copy, mailing a copy, emailing a copy, or sending a copy by commercial carrier. Service on an attorney for a party, or on a District agency through its Office of the General Counsel, designee, or its contractor, may be made by emailing a copy.
- 2812.4 Service by delivery means:
- (a) Handing a copy of a paper to the party or a representative;
 - (b) Leaving a paper at the party’s or representative’s place of business with an employee; or
 - (c) Leaving a paper at the party’s residence with an adult who lives there.
- 2812.5 Service by mail means mailing a properly addressed copy of a paper with first-class postage by depositing it with the United States Postal Service.
- 2812.6 Service by email means emailing a legible copy of a paper to the correct email address without the system receiving a reply that the email could not be delivered.
- 2812.7 Service by commercial carrier means giving a copy of a paper, properly addressed to the commercial carrier with the cost of delivery pre-paid for delivery within three calendar days.
- 2812.8 Unrepresented parties may consent to service by email or other means of service and may withdraw their consent. Both consent and withdrawal of that consent shall be in writing, and shall be filed with OAH and served on all parties. Implied consent to service by email shall be presumed if the unrepresented party has already filed or served papers via email.
- 2812.9 Any paper filed shall include a signed statement that the paper was served on the parties. This statement is known as a “certificate of service.” The certificate of service shall identify the individual serving the paper, the parties and addresses served, the way the paper was served, and the date served.

- 2812.10 The Clerk may reject, or an Administrative Law Judge may strike, a paper if a party fails to file a certificate of service with the paper.
- 2812.11 A party's actual receipt of a paper shall bar any claim by the party of defective service except for a claim of late service.
- 2812.12 A party shall send a copy of any paper filed by email (except a request for a hearing that begins a case) to all other parties, and shall include a certificate of service as required by § 2812.9.
- 2812.13 The five (5) additional days added to the response times by § 2813.5 do not apply to orders, notices, or papers served by email, even if they are also served by other means.
- 2812.14 Unless otherwise ordered, a party who files or serves any original paper by email shall keep the original until after the case is concluded and the time for any appeals has expired. The party shall make the original available for inspection upon request of another party after prior reasonable notice filed with OAH. This Section shall not limit the authority of an Administrative Law Judge to order production of the original.
- 2812.15 Parties served by email are responsible for monitoring their email accounts, including spam (bulk or junk) folders, and for opening the emails.
- 2812.16 The Clerk may serve orders and notices by email to any party who provides an email address and consents, in writing or on the record, to receiving papers by email. The party shall ensure that the Clerk has an accurate, up-to-date email address. The Clerk may serve orders and notices by email in addition to any other authorized method of service.
- 2812.17 If the District seeks to begin a case at OAH by filing a Notice of Infraction or a Notice of Violation pursuant to §§ 2803 and 2804, the District may transfer to OAH data from the Notice of Infraction or the Notice of Violation by electronic means, pursuant to prior technical arrangements with OAH. The electronic transfer by itself neither begins a case nor satisfies the District's obligations under §§ 2803 and 2804. The District shall file the Notice of Infraction or Notice of Violation and its attachments, substantially in the form provided to the Respondent, with the proof of service.

2813 CALCULATING DEADLINES

- 2813.1 This Section applies to all time periods, whether set by these Rules, by an OAH order, or by any applicable law, unless a statute or specific regulation provides otherwise.
- 2813.2 When an action shall or may be taken within a specified number of days after an act or event, the day of the act or event shall not be counted against the days allowed. If OAH is closed on the day that is the specified number of days after the act or event, then the last day for taking the action is the next day that OAH is open.
- 2813.3 When an action shall or may be taken at least a specified number of days before an act or event, the day of the act or event shall not be counted toward the required number of days. If OAH is closed on the day that is the specified number of days before the act or event, then the last day for taking the action is the next day that OAH is open.
- 2813.4 In computing any time period measured in hours:
- (a) If any period expires before 10:00 a.m. on any day OAH is open, the period shall be extended to 10:00 a.m. on that day;
 - (b) If any period expires after 4:00 p.m. on any day, the period shall be extended to 10:00 a.m. on the next day OAH is open; and
 - (c) If any period expires on a day OAH is closed, the period shall be extended to 10:00 a.m. on the next day OAH is open.
- 2813.5 Unless a statute or regulation provides otherwise, when a party may or shall act within a specified time period, measured in days, after service of a document:
- (a) The specified time period shall apply if the document is served no later than 5:00 p.m. by a successfully completed hand-delivery, or email transmission. If service by one of these methods is completed after 5:00 p.m., the document shall be deemed served the following day.
 - (b) One (1) day shall be added to the specified time period if the document is served by being delivered to or picked up by a commercial delivery service for next-day delivery.
 - (c) Five (5) days shall be added to the specified time period if the document is served by being placed in the United States mail (postage paid) or in District of Columbia Government inter-agency mail.
 - (d) Service is deemed complete when sent.

- 2813.6 When a party may or shall act within a specified time period, an Administrative Law Judge for good cause shown may reduce the time or extend it, even after the period has expired, except for any period prescribed by law, any period provided under § 2833, or any ten (10) day period provided under § 2830.
- 2813.7 Any reference to “days” in an OAH order or in these Rules means calendar days unless specifically designated otherwise.

2814 ANSWERS IN CIVIL FINE CASES

- 2814.1 To answer a Notice of Infraction or a Notice of Violation (both “Notice”), a Respondent shall file the Respondent’s copy of the Notice at OAH. The Respondent shall indicate on the Notice whether the Respondent’s answer is Admit, Admit with Explanation, or Deny.
- 2814.2 If a Respondent does not file the Respondent’s copy of the Notice, the answer shall be rejected by the Clerk’s Office.
- 2814.3 A Respondent is not required to send a copy of the answer to the District. OAH shall send the District a copy of every answer of Deny or Admit with Explanation.
- 2814.4 A Respondent whose answer is Admit shall pay the fine specified on the Notice when filing the answer. A Respondent who pays the fine without stating a plea shall be deemed to have pleaded Admit.
- 2814.5 If a Respondent’s answer is Deny, OAH shall schedule a hearing and shall notify the Respondent and District, in writing, of the hearing date and time. The hearing order shall contain additional information about procedures for the hearing.
- 2814.6 If a Respondent’s answer is Deny, an Administrative Law Judge may decide the case based on the papers submitted, without an in-person hearing, if the Administrative Law Judge determines that a hearing is unnecessary and after giving the District notice and an opportunity to respond.
- 2814.7 At least five (5) calendar days before any hearing date, the Respondent shall file with OAH, and also shall serve on the District copies of all exhibits that the Respondent intends to ask the Administrative Law Judge to consider at the hearing. An Administrative Law Judge may allow a Respondent to use exhibits at a hearing that the Respondent did not file or provide to the District before the hearing if there is no prejudice to the District.
- 2814.8 If a Respondent’s answer is Admit with Explanation, a Respondent shall submit a written explanation stating why the Respondent believes the Administrative Law Judge should reduce or suspend the fine or any penalty. The Respondent also shall submit any papers, photographs, or other materials supporting the Respondent’s explanation.
- 2814.9 OAH shall send a copy of an answer of Admit with Explanation and supporting materials to the District, and shall allow the District twenty-one (21) calendar days to reply. The District shall send the Respondent a copy of all papers the District files in reply.
- 2814.10 The Administrative Law Judge shall decide Admit with Explanation cases by considering all the materials filed by the parties, including any exhibits filed with

the Notice, Respondent's explanation and supporting materials, and the District's reply and supporting materials. The Administrative Law Judge shall hold a hearing only if the parties' materials are not sufficient to allow him or her to decide the case.

2814.11 In an Admit with Explanation case, the Administrative Law Judge shall dismiss the Notice if he or she determines that the Respondent did not commit or is not responsible for the violation charged.

2814.12 In all civil fine cases, an Administrative Law Judge shall not impose a fine that exceeds the fine amount the District requests.

2815 DEFAULTS IN CIVIL FINE CASES

2815.1 This Section contains rules for deciding civil fine cases in which the Respondent does not file an answer.

2815.2 (a) In a Civil Infractions Act or a Litter Control Administration Act case, if a Respondent fails to answer within the time required by law, an Administrative Law Judge shall determine whether:

 (1) The District has submitted evidence of proper service; and

 (2) The Notice of Infraction or Notice of Violation meets all legal requirements on its face.

(b) If an Administrative Law Judge determines the requirements of § 2815.2(a) have been met, the Administrative Law Judge shall find the Respondent in default and shall impose the legally authorized fine and penalty. If not, the Administrative Law Judge shall dismiss the Notice of Infraction or Notice of Violation without prejudice.

2815.3 In a Civil Infractions Act case, if the USPS returns an order finding the Respondent in default to the Clerk’s Office, for reasons that call into question the accuracy of any affidavit filed under §§ 2803.5 through 2803.10, (for example, “no such address,” “addressee unknown”), an Administrative Law Judge may issue an order requiring the District to show why the default order should not be vacated. If the District does not respond with sufficient evidence showing that it mailed the Notice of Infraction to a valid address for the Respondent, the default order shall be vacated and the Notice of Infraction shall be dismissed.

2815.4 In default cases brought under acts other than the Civil Infractions Act or the Litter Control Administration Act, the procedure shall be consistent with the applicable law and shall ensure that:

(a) There is sufficient evidence of proper service on the Respondent; and

(b) The charging document meets all legal requirements on its face.

2815.5 A Respondent who fails to answer shall be held in default and shall pay the legally authorized fine and penalty. If the Administrative Law Judge does not find the Respondent in default, the Administrative Law Judge shall dismiss the Notice without prejudice.

2816**INVOLUNTARY DISMISSALS AND DEFAULTS**

- 2816.1 Except as provided in § 2816.2, if the party initiating a case fails to comply with an Administrative Law Judge's order or these Rules or otherwise fails to prosecute the case, the Administrative Law Judge may, on his or her own motion or on the motion of the opposing party, dismiss all or part of the case. Dismissal shall ordinarily be with prejudice unless the Administrative Law Judge finds good cause to dismiss without prejudice.
- 2816.2 Dismissals for defective service shall be without prejudice, unless the Administrative Law Judge decides otherwise.
- 2816.3 If an attorney, representative, or unrepresented party fails, without good cause, to appear at a hearing, the Administrative Law Judge may dismiss the case, enter an order of default, decide the case on the merits, or impose other sanctions.
- 2816.4 If an attorney, representative, or unrepresented party fails, without good cause, to appear at a prehearing or status conference or a mediation session, the Administrative Law Judge may determine the appropriate sanction, which may include dismissal or entry of default.

2817 MOTIONS PROCEDURE

- 2817.1 A “motion” is a request for an Administrative Law Judge to take some action. Before filing any motion (except a motion for summary adjudication, voluntary dismissal, reconsideration, relief from a final order, attorney’s fees, or sanctions), a party shall make a good faith effort to ask all other parties if they agree to what the motion requests. The motion shall describe that good faith effort to obtain consent to the motion, and state whether the other parties agreed to what the motion requests. If a party fails to comply with this § 2817.1, an Administrative Law Judge may deny the motion.
- 2817.2 Unless made during a hearing, all motions shall be in writing. Parties may choose to file, or an Administrative Law Judge may require the parties to file, briefs (written arguments) in support of or in opposition to a motion. The required format and structure for motions shall be as follows:
- (a) Without permission from an Administrative Law Judge, no motion or response (or any brief in support of or in opposition to a motion) shall exceed twenty (20) one and one-half (1.5)-spaced typed pages in length, excluding exhibits.
 - (b) The font size of a motion, response, or brief shall be at least twelve (12) points, with no less than one-inch margins.
 - (c) The first page of a motion, response, or brief shall include: the parties’ names, the case number, and the name of the presiding Administrative Law Judge, if known. The last page shall include a certificate of service that complies with § 2812.9.
 - (d) A motion shall state what the party wants the Administrative Law Judge to do and why.
- 2817.3 When a motion is based on information not on the record, a party may support or oppose the motion with affidavits, declarations, or other papers.
- 2817.4 Except as otherwise ordered by an Administrative Law Judge, a separate memorandum of points and authorities shall not be filed with a motion.
- 2817.5 Before filing a motion to schedule or reschedule a hearing or status conference, a party shall make a good faith effort to consult with all other parties and seek agreement on two (2) or more acceptable dates and times for the hearing or status conference.
- 2817.6 Unless otherwise provided by these rules or ordered by an Administrative Law Judge, all parties opposing a motion shall have fourteen (14) calendar days from the service of the motion to file and serve a response. Further filings related to the

motion are not permitted and may be rejected unless ordered by an Administrative Law Judge.

2817.7 The Administrative Law Judge may decide any motion without holding a hearing. No motion, including a motion to extend time, to continue a hearing, or to seek other relief, shall be effective until an Administrative Law Judge decides the motion in writing. Parties may contact OAH to learn if an Administrative Law Judge has decided a motion.

2817.8 The Administrative Law Judge may decide a motion regarding scheduling or rescheduling without waiting for a response.

2818 VOLUNTARY DISMISSALS OF CASES

- 2818.1 The party initiating the case may move to dismiss the case at any time, and the Administrative Law Judge may grant the motion without waiting for a response from the opposing side.
- 2818.2 An opposing party who objects to the voluntary dismissal of a case may file a motion for reconsideration as provided in § 2830.
- 2818.3 The parties may file a joint motion for dismissal of a case with or without prejudice.
- 2818.4 Dismissal under this Section shall be without prejudice unless an Administrative Law Judge orders otherwise. A dismissal with prejudice may occur:
- (a) If the party requesting dismissal has previously dismissed the claim;
 - (b) If the motion for dismissal is made pursuant to a settlement that does not specifically require dismissal without prejudice; or
 - (c) In order to prevent harm to the other side.
- 2818.5 For any pending case, the agency issuing the Notice of Infraction or Notice of Violation shall file a Notice of Voluntary Dismissal with OAH within five (5) business days of any of the following occurring:
- (a) Payment of all fines cited in the subject Notice, and any applicable penalties, pursuant to an Admit plea submitted under § 2814.4;
 - (b) Any payment accepted in full satisfaction of all outstanding fines and penalties pursuant to settlement of the case; or
 - (c) Execution of a settlement agreement involving a waiver of outstanding fines and penalties.
- 2818.6 A Notice of Voluntary Dismissal filed pursuant to § 2818.5 shall reference one of the grounds above, if applicable.
- 2818.7 If a default order or Final Order is inadvertently entered by OAH due to an agency's failure to timely file a Notice of Voluntary Dismissal in accordance with this Rule, the agency shall file a Motion to Vacate in accordance with § 2830.11 within five (5) business days of service of the Final Order.

2819**SUMMARY ADJUDICATION**

- 2819.1 A party may move for an Administrative Law Judge to decide a case or part of a case summarily, without an evidentiary hearing, by filing a motion for summary adjudication. A motion for summary adjudication that relies on factual assertions shall include a statement of undisputed facts that support the decision requested by the party. A statement of undisputed facts sets forth facts that matter to the case and that the party has reason to believe are not or will not be genuinely disputed by the other party or parties. A motion for summary adjudication may include affidavits, declarations under penalty of perjury, exhibits, and a discussion of controlling legal authority.
- 2819.2 The party opposing a motion for summary adjudication may file a statement indicating for each fact set forth in the statement of undisputed facts whether the party admits the fact, denies the fact, or does not have sufficient information to admit or deny the fact. The party's opposition to the motion for summary adjudication may also include affidavits, declarations under penalty of perjury, exhibits, and a discussion of controlling legal authority.
- 2819.3 The Administrative Law Judge may treat as undisputed any facts set forth in the statement of undisputed facts that are not disputed by the opposing party. The Administrative Law Judge may also conduct a hearing on whether facts that matter to the case are genuinely in dispute.
- 2819.4 If the undisputed facts support the decision requested by the moving party, the Administrative Law Judge may grant a summary adjudication for the moving party.

2820 MEDIATION

- 2820.1 Mediation is a process of assisted, informal negotiation which uses a neutral third party, the mediator, to aid the parties in exploring the possibility of settlement. No party shall be compelled to accept a settlement or other resolution of the dispute in mediation.
- 2820.2 At any time during case proceedings, an Administrative Law Judge may refer a case for mediation to a qualified mediator with or without the consent of the parties. Any party may request an Administrative Law Judge to refer a case for mediation.
- 2820.3 Mediations are confidential and shall be closed to the public. Mediations shall not be recorded electronically or in any other manner, with or without the consent of the parties. Evidence of anything that occurs during mediation sessions and documents prepared exclusively for or during mediation shall not be introduced into evidence or otherwise disclosed to the presiding Administrative Law Judge. Nothing in this Subsection prohibits the introduction or disclosure of information or evidence that any party obtained outside of mediation.
- 2820.4 The mediator may speak privately with any party or any representative during the mediation process.
- 2820.5 The mediator shall not disclose anything that occurs at mediation to the presiding Administrative Law Judge except to report without elaboration:
- (a) Whether the parties reached an agreement; and, if not
 - (b) Whether he or she believes further mediation would be productive.
- 2820.6 The mediator shall not be called to testify, participate in discovery, or otherwise provide information in any subsequent proceeding related to the mediation.
- 2820.7 An Administrative Law Judge who conducts mediation shall not be the Administrative Law Judge in any subsequent proceedings for the case, but, with the consent of the parties, may issue an order on procedural matters concerning the mediation or reflecting any agreement reached during the mediation.
- 2820.8 All parties or their representatives shall appear for any mediation session. Any representative who appears shall have authority to resolve the case.
- 2820.9 If a party or representative fails to appear at a scheduled mediation session without good cause, the mediator shall notify the presiding Administrative Law Judge, who may impose an appropriate sanction, which may include dismissal or entry of default.

2821 DISCOVERY, EXPERT, AND OPINION TESTIMONY

- 2821.1 Discovery is generally not permitted. An Administrative Law Judge may authorize discovery for good cause shown, but interrogatories and depositions are disfavored.
- 2821.2 A party may move for an Administrative Law Judge to issue a subpoena to require any non-party to provide documents prior to the hearing in accordance with §§ 2824, 2934, 2975, and 2984, as applicable.
- 2821.3 Any motion for discovery shall explain the relevance of the information that is sought and shall describe all attempts to obtain consent from the opposing party, including a description of all discovery to which the opposing party has agreed.
- 2821.4 Unless otherwise ordered by an Administrative Law Judge, any motion for discovery shall be filed at least twenty (20) calendar days before the date of any scheduled evidentiary hearing.
- 2821.5 An Administrative Law Judge may impose appropriate sanctions if a party fails to comply with a discovery request, including prohibiting the party from offering evidence and ordering that specific facts are established.
- 2821.6 At an Administrative Law Judge's discretion, a witness may be allowed to offer opinion testimony even if the witness is not qualified by an Administrative Law Judge as an expert in a particular subject matter. A party wishing to present expert or other opinion testimony may disclose to the other parties in writing, a reasonable time prior to the witness's testimony, some or all of the following:
- (a) The witness's identity and professional experience (a resume or curriculum vitae);
 - (b) The opinions to which the witness expects to testify;
 - (c) A short and plain statement of the basis for each opinion to which the witness expects to testify; and
 - (d) If the witness expects to base an opinion on publications, a list of those publications.
- 2821.7 The disclosures under § 2821.6 may be prepared by someone other than the witness. A party may be required to make any or all of these disclosures by order of an Administrative Law Judge.
- 2821.8 For good cause shown, including undue prejudice to a party, an Administrative Law Judge may limit, postpone, or refuse to allow expert or other opinion testimony. In deciding whether a witness may offer expert or other opinion testimony and in assessing how much weight to give to such testimony, an Administrative Law Judge

may consider the adequacy, timing, or absence of the disclosures described in § 2821.6 as well as any failure to make an ordered disclosure.

2822 BURDEN OF PROOF

2822.1 Unless otherwise established by law, the proponent of an order shall have the burden of proof, that is, the requirement to persuade the Administrative Law Judge on every contested factual issue.

2822.2 Unless otherwise established by law, the burden of production, that is, the requirement to introduce evidence first, shall be as follows:

- (a) Whenever a party challenges the District's denial of an application for a license, permit, or public benefit, the District shall have the burden of producing sufficient evidence to establish the reasons for the denial;
- (b) Whenever the District suspends, revokes, or terminates a license, permit, or public benefit, or proposes to do so, the District shall have the burden of producing sufficient evidence to establish the reasons for its action;
- (c) The party asserting an affirmative defense identified in District of Columbia Superior Court Civil Rule 8(c) shall have the burden of producing sufficient evidence to establish that defense; and
- (d) The party asserting an exception to the requirements or prohibitions of any statute or rule shall have the burden of producing sufficient evidence to establish that exception.

2822.3 Otherwise, an Administrative Law Judge shall allocate the burden of producing evidence to promote fairness, equity, substantial justice, and sound judicial administration.

2822.4 If a party has presented all of its evidence on an issue on which it has the burden of proof, and the presiding Administrative Law Judge concludes that the party has failed to meet its burden, the Administrative Law Judge may find against that party on that issue without awaiting the close of all the evidence in that case.

2823 HEARINGS AND EVIDENCE

- 2823.1 The presiding Administrative Law Judge shall determine whether a hearing is required by law in any case.
- 2823.2 Unless otherwise ordered by an Administrative Law Judge, at least five (5) calendar days before any evidentiary hearing (except in unemployment compensation cases governed by § 2983.1 or in DFHV cases), a party shall serve on all other parties and file with the Clerk the following:
- (a) A list of the witnesses, other than a party or a charging inspector, whom the party intends to call to testify, including their address and telephone number if available; and
 - (b) An exhibit list, including a numbered copy of each exhibit that the party intends to offer into evidence, other than exhibits that were served with the Notice of Violation, Notice of Infraction, or Answer or are to be used solely for impeachment or rebuttal.
- 2823.3 The Administrative Law Judge may exclude any witnesses or exhibits not disclosed under § 2823.2 if he or she finds that the opposing party would be prejudiced by the failure to disclose.
- 2823.4
- (a) An Administrative Law Judge shall have the sole discretion to determine whether a proceeding or part of a proceeding will be conducted in person, via teleconference, or via videoconference.
 - (b) Subject to a party's right to request to appear in person or via videoconference, teleconferencing shall be presumptively used for pre-hearing conferences, status conferences and motion hearings.
 - (c) By OAH policy, the Chief Administrative Law Judge shall establish the presumed manner of conducting evidentiary hearings.
 - (d) An in-person hearing shall be held only in an OAH courtroom, except as otherwise provided in this Section. An in-person hearing may be held in another physical location only as required by law or in exceptional circumstances with approval of the Chief Administrative Law Judge. An Administrative Law Judge may permit a party to appear or a witness to testify at an in-person hearing from a remote location by telephone, videoconferencing, or similar means. Unless otherwise permitted or ordered by an Administrative Law Judge, representatives of a party shall not appear by telephone at an in-person hearing.
 - (e) An Administrative Law Judge may determine the manner and extent of the use of teleconferencing or videoconferencing, and may require participants

to attend court proceedings, in whole or in part, in whatever manner they deem appropriate.

- (f) Any party may request that a hearing may be conducted in an alternate platform or in-person if scheduled remotely. Any request to change the platform in which a hearing is to be conducted shall comply with § 2817 regarding the filing of motions. In considering a request to change the way a proceeding is conducted, the Administrative Law Judge shall consider:
 - (1) The capabilities of the Administrative Law Judge and the parties to participate in the platform to be used, including whether any necessary parties are unable to participate in the proceeding because of lack of technology, poor connectivity, actual inability to use technology, or inability to physically appear;
 - (2) Whether the other necessary parties consent to the request;
 - (3) Whether the platform to be used for the proceeding will facilitate the presentation of evidence in the case;
 - (4) Whether the platform to be used for the proceeding will prejudice either party, either positively or negatively; and
 - (5) Any other factors that the Administrative Law Judge may determine to be relevant.

2823.5 Parties shall have the following rights at a hearing:

- (a) To testify and to have other witnesses testify for them;
- (b) To cross-examine witnesses called by another party;
- (c) To request that any prospective witness be excluded from the courtroom;
- (d) To examine all exhibits offered into evidence by another party;
- (e) To object to the admission of any testimony or other evidence;
- (f) To subpoena witnesses, as provided in § 2824; and
- (g) To appear with a representative, as provided in §§ 2808 and 2810.

2823.6 At a hearing, all parties may present evidence. “Evidence” includes testimony by the parties and by any witnesses; papers; photographs; or any other items that a party believes may help the Administrative Law Judge decide the case. The

2824 SUBPOENAS FOR WITNESSES AND FOR DOCUMENTS AT HEARINGS

- 2824.1 Except as provided in § 2824.5 (unemployment compensation and rental housing cases), a subpoena for the appearance of witnesses and production of documents at a hearing shall only be issued by an Administrative Law Judge.
- 2824.2 A party may request a subpoena in writing in accordance with § 2824.3 or an Administrative Law Judge may issue a subpoena without a party's request. Subpoenas and forms to request a subpoena are available from the Clerk's Office.
- 2824.3 To request a subpoena, unless otherwise authorized by an Administrative Law Judge, a party shall file a motion that states the relevance of the requested testimony or documents with a copy of the proposed subpoena. An Administrative Law Judge may modify the proposed subpoena.
- 2824.4 Unless otherwise provided by law or order of an Administrative Law Judge, any request for a subpoena shall be filed no later than seven (7) calendar days prior to the hearing.
- 2824.5 In unemployment compensation and rental housing cases, the Clerk shall, without an order of the Administrative Law Judge, issue the following subpoenas at the request of a party:
- (a) For subpoenas in unemployment compensation cases, refer to Section 2984.
 - (b) For subpoenas in rental housing cases, refer to Section 2934.
 - (c) When the Clerk issues a subpoena authorized by this Subsection, the Clerk shall sign it, but otherwise leave it blank. The party requesting the subpoena shall fill in the remaining information on the subpoena form.
 - (d) If a party in an unemployment insurance or rental housing case wants to obtain any subpoena not authorized by this Subsection, the party shall request an Administrative Law Judge to issue that subpoena in accordance with §§ 2824.1 through 2824.4.
- 2824.6 It is the responsibility of the requesting party to serve a subpoena in a timely fashion. Any person, including a party, who is at least eighteen (18) years of age, may serve a subpoena.
- 2824.7 Service of a subpoena for a witness to appear at a hearing shall be made by personally delivering the subpoena to the witness, or as consented to by the person or entity served, or as ordered by an Administrative Law Judge. Unless otherwise ordered by an Administrative Law Judge, service shall be made at least seven (7) calendar days before the hearing.

- 2824.8 A subpoena for the production of documents shall be directed to either an individual, a corporation, the District, or another entity.
- 2824.9 A subpoena to produce documents shall be served by any of the following means:
- (a) Handing it to the person or to a representative of the person or entity;
 - (b) Leaving it at a person's office with a responsible adult, or if no one is available, leaving it in a conspicuous place in the office;
 - (c) Leaving it with a responsible adult at an entity's office that is connected to the case;
 - (d) Mailing it to the last known address of the person;
 - (e) Mailing it to the last known address of an entity's office connected to the case; or
 - (f) Delivering it by any other means, including electronic means, if consented to in writing by the person or entity served, or as ordered by an Administrative Law Judge.
- 2824.10 A person or entity ordered by subpoena to produce documents:
- (a) Shall not appear in person at the hearing unless ordered by an Administrative Law Judge to produce the documents at a hearing;
 - (b) Shall produce the documents as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the subpoena; and
 - (c) Shall expressly make any claims of privilege or protection with a description of the documents not produced that is sufficient to enable the requesting party to contest the claim.
- 2824.11 A subpoena may be served at any place within the District of Columbia, or at any place outside the District of Columbia that is within twenty-five (25) miles of the place of the hearing.
- 2824.12 Upon order of an Administrative Law Judge, to prove service of a subpoena, a party shall file a written statement or shall provide in-court testimony describing the date of service, manner of service, and names of the persons served.
- 2824.13 The recipient of a subpoena, or any party to the case, may file and serve a motion to quash or modify the subpoena. An Administrative Law Judge may quash or modify the subpoena for any reason, including, but not limited to, if the subpoena:

- (a) Was issued under §§ 2824.5, 2934.1 or 2984.1, but does not meet the requirements of those Subsections;
- (b) Was improperly served;
- (c) Fails to allow reasonable time for compliance;
- (d) Requires a person who is not a party or an officer of a party to travel to a hearing more than twenty-five (25) miles from where that person resides, is employed, or regularly transacts business, except that such a person may be ordered to appear by telephone;
- (e) Requires disclosure of privileged or other protected information; or
- (f) Subjects a person or entity to undue burden or expense.

2824.14 If a person or entity disobeys a subpoena, an Administrative Law Judge may order compliance with the subpoena, as authorized by D.C. Official Code § 2-1831.09(b)(1). If a person subject to the order fails to comply, the Administrative Law Judge may impose sanctions as authorized by D.C. Official Code § 2-1831.09(b)(8). A party may apply to the Superior Court of the District of Columbia for an order to show cause why that person should not be held in civil contempt, as authorized by D.C. Official Code § 2-1831.09(e).

2825**CONSOLIDATION AND SEPARATE HEARINGS**

2825.1 When cases involve a common question of law or fact, or when multiple Notices of Violation or Notices of Infraction have been issued to the same Respondent, an Administrative Law Judge may, in his or her discretion:

(a) Consolidate the cases for all or any purposes; or

(b) Order a joint hearing on all or any issues.

2825.2 An Administrative Law Judge may consolidate cases or order a joint hearing on motion of a party or on the Administrative Law Judge's own motion.

2825.3 An Administrative Law Judge may order a separate hearing on any issue in a case where appropriate.

2826 LANGUAGE INTERPRETATION

- 2826.1 OAH shall provide oral or sign language interpretation services upon request for persons seeking information or participating in a hearing. An Administrative Law Judge may order the use of such services at a hearing. Only interpreters arranged by OAH shall be used during hearings.

- 2826.2 A person who needs oral or sign language interpretation services for a hearing shall request them as early as possible to avoid delay.

- 2826.3 Upon request by a party with impaired vision, OAH shall provide official documents in Braille or large print within seven (7) business days.

- 2826.4 An interpreter at a hearing shall interpret accurately, completely, and impartially to the best of the interpreter's skills and judgment, and under oath or affirmation subject to the penalty of perjury.

2827 COURTROOM PROCEDURE

- 2827.1 Unless otherwise prohibited by law or duly ordered by an Administrative Law Judge, proceedings at OAH shall be open to the public.
- 2827.2 Administrative Law Judges and OAH non-judicial staff may observe any proceedings at OAH. They shall keep confidential any confidential information that they may receive in those proceedings.
- 2827.3 Electronic devices that make noise, including cell phones, are prohibited unless set for silent operation.
- 2827.4 Audio and video recording, broadcasting, and photography are prohibited anywhere at OAH unless authorized by the Chief Administrative Law Judge. The presiding Administrative Law Judge may allow anyone to draw during proceedings in a hearing room so long as it does not disrupt those proceedings.
- 2827.5 Weapons, dangerous implements, and illegal drugs are prohibited at OAH and are subject to confiscation. The prohibition against weapons does not apply to authorized service weapons carried by law enforcement officers unless they are parties to a case.
- 2827.6 Dangerous or toxic items, including but not limited to chemicals and sharp objects, that pose a threat to health or safety are prohibited at OAH. Any party who wants to use such an item as evidence shall file a motion and obtain the approval of the presiding Administrative Law Judge prior to the hearing before bringing the item to OAH.
- 2827.7 Except for those animals assisting persons with disabilities, animals are prohibited at OAH.
- 2827.8 Any person who presents a threat to safety or who is disrupting OAH operations or proceedings may be removed.

2828 RECORDINGS AND TRANSCRIPTS

- 2828.1 All proceedings, except for mediations, shall be recorded. The recording is the official record of what occurred at the proceeding.
- 2828.2 Any party may obtain a copy of the recording of a proceeding by request. OAH may charge a fee for the recording, but the fee may be waived by an Administrative Law Judge or by the Clerk's Office.
- 2828.3 Any transcript of a recording of a proceeding shall be prepared by a qualified reporter or transcriber who shall personally certify that he or she is not a party or counsel to a party or otherwise related to or employed by a party or counsel in the case; that he or she has no material interest in the outcome of the case; and that the transcript represents the testimony and proceedings of the case as recorded.
- 2828.4 In filings, a party may only rely upon a transcript prepared according to this Section.
- 2828.5 Unless otherwise stipulated by the parties or ordered by an Administrative Law Judge, if a party cites to a portion of a transcript, the entire transcript of the proceeding shall be filed at OAH, and a copy shall be served on all parties.
- 2828.6 In any case in which a party files a petition for review in the District of Columbia Court of Appeals, OAH shall arrange for the preparation and filing of a transcript without charge to any party.

2829

SANCTIONS

2829.1

Before issuing an order imposing any sanctions under the OAH Establishment Act (D.C. Official Code §§ 2-1831.01 - .19), the presiding Administrative Law Judge shall allow the party subject to the sanction an opportunity to be heard. Any order imposing a sanction shall be in writing.

2830 REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER

2830.1 This Section contains Rules about how to ask an Administrative Law Judge to change a final order after it has been issued or to request a new hearing whether or not a final order has been issued. Errors or omissions are not a sufficient basis for a new hearing or to change an order if the errors are harmless.

2830.2 No motion filed under this Section stays the final order or otherwise affects a party's obligations to comply with the final order, unless an Administrative Law Judge orders otherwise.

2830.3 Within ten (10) calendar days after a final order has been served, any party may file a motion asking the Administrative Law Judge to change the final order. Such a motion is a "motion for reconsideration or for a new hearing." The movant shall state whether an appeal has been filed.

- (a) If an appeal has been filed, OAH has no jurisdiction to decide the motion absent a remand for that purpose.
- (b) If an appeal has been filed, an Administrative Law Judge may, in his or her discretion, issue an indicative order to alert the appellate forum as to how they would rule on a motion for reconsideration if OAH had jurisdiction.

2830.4 With the exception of public sector workers' compensation cases, if any party files a motion for reconsideration or for a new hearing within the ten (10) calendar day deadline of § 2830.3, the time for seeking judicial review of a final order does not start to run until the Administrative Law Judge rules on the motion.

2830.5 If any party files a motion for reconsideration or for a new hearing before a final order is issued or within the ten (10) calendar day deadline of § 2830.3, and where substantial justice requires, the Administrative Law Judge may change the final order or schedule a new hearing for any reason including, but not limited to, the following:

- (a) The party filing the motion did not attend the hearing, has a good reason for not doing so, and states an adequate claim or defense;
- (b) The party filing the motion did not file a required answer to a Notice of Infraction or Notice of Violation or did not file some other required document, has a good reason for not doing so, and states an adequate claim or defense;
- (c) The final order contains an error of law;
- (d) The final order's findings of fact are not supported by the evidence; or

- (e) New evidence has been discovered that previously was not reasonably available to the party filing the motion.

2830.6 An Administrative Law Judge shall treat any motion asking for a change in a final order as a motion for reconsideration or for a new hearing if it is filed within the ten (10) calendar day deadline specified in § 2830.3, regardless of the title that a party gives to that motion.

2830.7 After the ten (10) calendar day deadline, a party may file a motion asking the Administrative Law Judge to change the final order. A motion filed under this Subsection is a “motion for relief from the final order.” The movant shall state whether an appeal has been filed. If an appeal has been filed, OAH has no jurisdiction to decide the motion absent a remand for that purpose.

2830.8 Any motion for relief from the final order has no effect on the deadline for seeking judicial review of the final order.

2830.9 Any motion for relief from the final order based on the grounds stated in § 2830.10 (a), (b), or (c) shall be filed within one-hundred twenty (120) calendar days after service of the final order. A motion for relief from the final order based on the grounds stated in § 2830.10 (d) or (e) may be filed at any time.

2830.10 On a motion for relief from the final order, an Administrative Law Judge may change the final order only for one or more of the following reasons:

- (a) Mistake, inadvertence, surprise, excusable neglect, or any other reason justifying relief (such as failure to attend a hearing for good cause; failure to answer a Notice of Infraction or Notice of Violation for good cause; or failure to file a required document for good cause), provided that the Administrative Law Judge considers whether the party:
 - (1) Had actual notice of the proceedings;
 - (2) Acted in good faith;
 - (3) Took prompt action;
 - (4) Presented an adequate defense, and
 - (5) Can argue that changing the final order would not prejudice the non-moving party;
- (b) Newly discovered evidence that with reasonable diligence could not have been discovered in time to file a motion for reconsideration or for a new hearing within the ten (10) calendar day deadline;

- (c) Fraud, misrepresentation, or other misconduct of an adverse party;
- (d) The final order is void, such as when the final order has been entered following defective or invalid service of process; or
- (e) A prior judgment on which the final order is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

2830.11 For good cause shown, the agency issuing the Notice of Infraction or Notice of Violation may request that a final order issued in its favor be set aside.

2830.12 An Administrative Law Judge shall treat any motion asking for a change in a final order as a motion for relief from the final order, if the motion is not filed within the ten (10) calendar day deadline specified in § 2830.3, regardless of the title that a party gives to that motion.

2830.13 Any party filing any motion under this Section shall include a short and plain statement of all the reasons why the Administrative Law Judge should change the final order or conduct a new hearing.

2830.14 An opposing party is not required to file a response to any motion under this Section, unless an Administrative Law Judge orders a response. Before granting any motion under the Section, an Administrative Law Judge shall issue an order allowing the opposing party an opportunity to respond to the motion.

2830.15 If an Administrative Law Judge grants a motion filed under this Section, he or she may:

- (a) Order further submissions from the parties;
- (b) Order the parties to appear for a hearing; or
- (c) Issue a new final order that may or may not change the result in the case.

2830.16 A party who files a motion under this Section may request a ruling on the motion at any time before the Administrative Law Judge rules on the motion.

2831**APPEALS**

- 2831.1 Every appealable order shall include a statement of appeal rights and shall be served on the parties and their representatives.
- 2831.2 The filing of an appeal or a petition for review does not stay or delay the date a final order goes into effect unless a stay is ordered.
- 2831.3 Any party may file a motion to stay a final order pending appeal. A motion for a stay shall include the reasons for granting the stay. Any party may file a motion to stay the effective date of a final order.
- 2831.4 In determining whether to grant a stay, the Administrative Law Judge may consider the following factors: whether the party filing the motion is likely to succeed on the merits, whether denial of the stay will cause irreparable injury, whether and to what degree granting the stay will harm other parties, and whether the public interest favors granting a stay.

2832**CLERICAL MISTAKES**

- 2832.1 At any time, an Administrative Law Judge or the Clerk, in consultation with an Administrative Law Judge, may correct clerical, typographical, numerical, or technical mistakes in the record and errors from oversight or omission.
- 2832.2 An Administrative Law Judge may order that notice of such corrections be given to the parties.
- 2832.3 If a party has filed a request for appellate review, such mistakes may be corrected before the record is transmitted to the reviewing court, and thereafter may be corrected with leave of the reviewing court.

2833**PAYMENT PLANS IN CIVIL INFRACTIONS ACT CASES**

- 2833.1 If an Administrative Law Judge has imposed monetary sanctions under the Civil Infractions Act, a Respondent may request to pay the monetary sanctions in installments. An Administrative Law Judge may permit installment payments for no more than six months beyond the date of the final order and may charge a fee of one percent per month of the outstanding amount.
- 2833.2 In requesting a payment plan under this Section, a Respondent shall state, in writing, the reasons for seeking a payment plan, the length of time requested, and why Respondent cannot afford to pay the entire monetary sanction in a lump sum.
- 2833.3 A Respondent shall file with OAH and serve on the District a request for a payment plan within thirty (30) calendar days of the service of the final order.
- 2833.4 The District may file with OAH a response to a request for a payment plan within five calendar days of the service of the request.

2834 ABATEMENT COST REQUESTS

- 2834.1 Before or after an Administrative Law Judge has issued a final order finding a Respondent liable for a violation of the Litter Control Administration Act, the District may file and serve a motion to require the Respondent to pay abatement costs. The District shall file and serve the motion, with an itemization of costs, not later than one-hundred and twenty (120) calendar days after service of a final order. A Respondent shall have fourteen (14) calendar days from the date of being served with the motion to file and serve a response on the District.
- 2834.2 A Respondent may request a hearing on the District's motion. The request shall be in writing and shall be filed within thirty (30) calendar days after the District serves its motion.
- 2834.3 If a Respondent timely requests a hearing on the District's motion, the presiding Administrative Law Judge shall hold a hearing on the issue of abatement costs. At the hearing on abatement costs, the Administrative Law Judge shall not consider any arguments or evidence relating to Respondent's previously established liability for the violation. A Respondent's liability has been previously established if:
- (a) An Administrative Law Judge has held a separate hearing on the violation and found the Respondent liable for the violation;
 - (b) The Respondent has admitted liability; or
 - (c) An Administrative Law Judge has found the Respondent in default.
- 2834.4 If liability has not been previously established, the Administrative Law Judge may consolidate the liability and abatement cost hearings in their sole discretion.
- 2834.5 If a Respondent does not file a timely request for a hearing on the District's motion, the Administrative Law Judge may:
- (a) Decide, based on the papers filed, whether the District is entitled to recover abatement costs and their amount; or
 - (b) Before deciding the issue, order the District and the Respondent to appear for a hearing on the issue.

2835 INABILITY OF AN ADMINISTRATIVE LAW JUDGE TO PROCEED

- 2835.1 If a hearing has commenced or is completed and the assigned Administrative Law Judge is unable to proceed, another Administrative Law Judge may proceed in the case. The successor Administrative Law Judge shall certify that he or she is familiar with the record.

- 2835.2 If a recording of the hearing is unavailable, the successor Administrative Law Judge shall, if requested by any party, recall a witness whose testimony is material and disputed.

- 2835.3 The successor Administrative Law Judge may serve the parties with a proposed final order and allow the parties to file exceptions and present argument before issuing a final order.

2836 RECUSAL; ETHICS COMPLIANCE

2836.1 Whether or not a party has moved for recusal, an Administrative Law Judge who has a personal bias or prejudice in favor of or against any party in an assigned case, or who has another good reason to recuse himself or herself from the case, shall proceed no further in the case, and the case shall be reassigned to another Administrative Law Judge. An Administrative Law Judge may recuse himself or herself from a case only if there is good reason to do so.

2836.2 Administrative Law Judges at all times shall comply with the OAH Code of Judicial Ethics, which shall be available to the public.

2836.3 A party to a case may file a motion to disqualify the presiding Administrative Law Judge for reasons that include, but are not limited to:

- (a) The Administrative Law Judge has a personal bias or prejudice concerning a party or a party's lawyer or other representative involved in the proceeding;
- (b) The Administrative Law Judge served as lawyer or representative in the matter in controversy, or a lawyer with whom the Administrative Law Judge practiced law served during such association as a lawyer concerning the matter, or the Administrative Law Judge or such lawyer has been a material witness concerning it;
- (c) The Administrative Law Judge has served in other governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;
- (d) The Administrative Law Judge, individually or as a fiduciary, or the Administrative Law Judge's spouse or minor child residing in the Administrative Law Judge's household, has a more than trivial financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding; or
- (e) The Administrative Law Judge or the Administrative Law Judge's spouse or a person within the third degree of relationship to either of them or the spouse of such person:
 - (1) Is a party to the proceeding, or an officer, director, or trustee of a party;
 - (2) Is acting as a lawyer or representative in the proceeding;

- (3) Is known by the Administrative Law Judge to have an interest that could be substantially affected by the outcome of the proceeding; or
- (4) Is to the Administrative Law Judge's knowledge likely to be a material witness in the proceeding.

2836.4 A motion to disqualify the presiding Administrative Law Judge shall:

- (a) Allege the specific facts and reasons upon which the movant relies as the grounds for disqualification. The moving party shall include all grounds for disqualification that are known at the time the motion is filed;
- (b) Identify the precise date when the facts constituting the grounds for the motion were discovered by the party or the party's counsel;
- (c) Be filed within a reasonable time not to exceed fourteen (14) calendar days after discovery by the party or party's counsel of the facts constituting the grounds for the motion. If a party discovers the grounds for disqualification within fourteen (14) calendar days of a scheduled hearing, the motion shall be filed as soon as practicable; and
- (d) Be sworn by the movant or include a legally sufficient affidavit stating the specific facts and evidence supporting the grounds for disqualification.

2836.5 For the purposes of this Rule, the following grounds are not legally sufficient to support a motion to disqualify:

- (a) Generalized, speculative, conclusory or unsubstantiated assertions of the grounds set forth in § 2836.3;
- (b) Complaints of bias or prejudice based on adverse rulings by the Administrative Law Judge or statements and opinions made while ruling on matters before the court;
- (c) Complaints of bias or prejudice that would not lead an objectively reasonable observer to conclude that recusal was required; or
- (d) Actions taken or statements made by an Administrative Law Judge while disciplining a party or counsel or taking corrective action in order to maintain control and decorum in the courtroom or hearing, unless such statements or actions rise to a level of hostility or unprofessionalism that an objective, reasonable person would acknowledge represents more than mere discipline.

2836.6 The challenged judge shall rule on the motion to disqualify by examining the legal sufficiency of the motion. The challenged judge shall not weigh the evidence or

dispute the factual allegations. If the motion is deemed legally sufficient and is granted, the case shall be reassigned to a different Administrative Law Judge. If the motion is denied, judicial review may be sought in accordance with applicable law.

2837

AMICUS CURIAE OR “FRIEND OF THE COURT”

2837.1

Any non-party having an interest in the issues in a case pending before OAH may move for leave to file an *amicus curiae* submission or to make an *amicus curiae* appearance, or an Administrative Law Judge may invite such a submission or appearance. The motion shall explain why the *amicus curiae* submission or appearance would be helpful to OAH.

2838

CHIEF ADMINISTRATIVE LAW JUDGE RESPONSIBILITIES

2838.1

The Chief Administrative Law Judge or his or her designee may administer an oath of office to an Administrative Law Judge or other OAH employee.

DEFINITIONS

For the purposes of this chapter the term:

Agency shall have the same meaning as the term is defined in D.C. Official Code § 2-502(3).

Civil Infractions Act means the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 - .05.

Clerk means the OAH Clerk of Court or authorized designee.

Commercial carrier means a business that accepts and delivers parcels, such as Federal Express or the United Parcel Service.

District of Columbia or District means the District of Columbia, or any government agency authorized by law to prosecute cases before OAH and whose administrative litigation falls under the jurisdiction of OAH, but does not include OAH.

Exhibit means a document, photograph, an audio or video recording, an electronic item, or any non-documentary or physical evidence filed with a paper, or offered into evidence at a proceeding.

In-person proceeding means a proceeding that is held in an OAH courtroom with all participants physically present in the same location.

Litter Control Administration Act means the Litter Control Administration Act of 1985, D.C. Official Code §§ 8-801 – 812.

Motion means a request for an Administrative Law Judge to take some action.

OAH Establishment Act means the Office of Administrative Hearings Establishment Act of 2001, D.C. Official Code §§ 2-1831.01 - .19.

Paper means any pleading, Notice of Infraction, Notice of Violation, motion, exhibit, witness list, brief, or any other written submission filed with OAH.

Party means persons or entities who begin a case at OAH or the persons or entities on the other side.

Presiding Administrative Law Judge means an Administrative Law Judge assigned to a particular case.

Respondent means the person or entity against whom the District seeks payment of a fine for a Notice of Infraction or a Notice of Violation.

Signature means (1) an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record; (2) a scanned version of an original signature that has been copied and pasted into a PDF document; or (3) a person's name written in ink.

Teleconferencing means the use of a remote digital platform, used through an audio-only option, that sends audio signals over a transmission circuit so that two or more individuals can communicate with each other while in different physical locations.

Videoconferencing means the use of a remote digital platform that sends video, voice, and/or data signals over a transmission circuit so that two or more individuals or groups can communicate with each other simultaneously using video codecs, monitors, cameras, audio microphones, and audio speakers.

2900 DCPS AND OSSE HEARINGS – SCOPE

2900.1 Sections 2900 through 2909 shall govern procedures in cases referred to OAH by the District of Columbia Public Schools (DCPS) and by the District of Columbia Office of the State Superintendent of Education (OSSE).

2900.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2900 through 2909.

2900.3 OAH is not required to follow any other procedural rules adopted by DCPS or by OSSE in cases referred to OAH by DCPS or by OSSE.

2901**DCPS STUDENT DISCIPLINE CASES – REFERRALS**

2901.1 DCPS may refer a student discipline case to OAH, for an Administrative Law Judge to hold a hearing and to decide:

- (a) The material facts;
- (b) Whether required due process procedures, including notice and the opportunity to respond to the charges, have been followed or have been waived;
- (c) Whether any failure to follow procedures identified in 5-B DCMR § 2505 was prejudicial;
- (d) Whether the facts show that the student committed any of the violations upon which a proposed disciplinary action is based; and
- (e) The proper Tier for any violation shown, as specified in 5-B DCMR § 2502.

2901.2 DCPS shall refer a student discipline case by filing with OAH a copy of the notice of recommended action provided to the adult student, or a minor student's parent or guardian. DCPS shall provide the adult student or minor student's parent or guardian with a hearing notice that states:

- (a) The date and time of the hearing;
- (b) Directions for attending the hearing remotely (or the location of an in-person hearing);
- (c) The hearing rights of the adult student or the minor student's parent or guardian; and
- (d) The consequences of failing to attend the hearing without a good reason.

2902 DCPS STUDENT DISCIPLINE CASES – HEARINGS

- 2902.1 An adult student, or a minor student’s parent or guardian, may request DCPS or OAH to postpone the hearing for not more than five (5) school days, if necessary to prepare for the hearing or provide for the attendance of necessary parties or witnesses.
- 2902.2 The parties shall file exhibits and witness lists at least one (1) day before the hearing unless the party has a good reason for not doing so. DCPS shall provide an adult student or a minor student’s parent or guardian with any exhibits and witness lists when it issues the Notice of Hearing.
- 2902.3 DCPS shall allow an adult student, or a minor student’s parent or guardian, or a student’s attorney, to inspect and copy the student’s disciplinary file before the hearing upon request and consistent with any applicable laws or regulations.
- 2902.4 Prior to the hearing, DCPS shall make the student’s disciplinary file electronically available to OAH and to the adult student or to the minor student’s parent or guardian. Either party may move to introduce all or part of the disciplinary file into evidence at the hearing.
- 2902.5 The parties shall have all rights set forth in § 2823.5 at a hearing.
- 2902.6 An adult student or a minor student’s parent or guardian may select another person to represent a student at a hearing, in addition to the representatives listed in §§ 2808 and 2810. The representative shall be subject to §§ 2810.12 through 2810.14.
- 2902.7 The hearing shall be closed to the public unless the adult student or the minor student’s parent or guardian requests the hearing be open to the public.
- 2902.8 A party who fails to appear for a scheduled hearing may ask OAH, in writing, for a new hearing date. The request shall be filed within one (1) school day after the scheduled hearing date. The Administrative Law Judge may grant a new hearing date for good cause shown.

2903 DCPS STUDENT DISCIPLINE CASES – DECISIONS

- 2903.1 After the close of the record in a student discipline case, the Administrative Law Judge shall issue Findings of Fact and Conclusions of Law on the issues identified in § 2901.1.
- 2903.2 The Administrative Law Judge shall issue the Findings of Fact and Conclusions of Law within one (1) school day after the close of the record. OAH shall provide copies to DCPS, to the adult student or minor student’s parent or guardian, and to any authorized representative.
- 2903.3 In all student discipline cases, DCPS shall be bound by the Administrative Law Judge’s Findings of Fact and Conclusions of Law and shall have no authority to reverse or modify the Findings of Fact or Conclusions of Law.
- 2903.4 If the Administrative Law Judge concludes that the student committed any of the violations upon which the disciplinary action is based, the Administrative Law Judge shall make a recommendation for the appropriate discipline within the Tier found to be proper, considering the factors in 5-B DCMR § 2502. OAH shall return the case to DCPS for it to decide the appropriate discipline.
- 2903.5 If the Administrative Law Judge concludes that due process was denied or that the student did not commit any of the violations upon which the disciplinary action is based, OAH shall return the case to DCPS for appropriate action.
- 2903.6 Because this Section requires that OAH return student discipline cases to DCPS for further action, the Administrative Law Judge’s decision is not a final disposition of the matter, and a statement of appeal rights is not required in accordance with § 2831.1.

2904 DCPS STUDENT DISCIPLINE CASES – RECONSIDERATION

2904.1 Section 2830 of these Rules shall not apply to DCPS cases. If DCPS has not issued a final notice of disciplinary action, any party may file a written motion for reconsideration of the Findings of Fact and Conclusions of Law no later than one (1) school day after the date the decision is issued. A copy of any such motion shall be served on the opposing party. The presiding ALJ shall decide the motion within one (1) school day.

2904.2 If any party files a motion for reconsideration or for a new hearing, the Administrative Law Judge may change the Findings of Fact and Conclusions of Law or grant a new hearing where substantial justice requires, or for any reason including, but not limited to, the following:

- (a) The party filing the motion did not attend the hearing, has a good reason for not doing so, and states an adequate claim or defense;
- (b) The Findings of Fact and Conclusions of Law contain an error of law;
- (c) The Findings of Fact and Conclusions of Law are not supported by the evidence; or
- (d) New evidence has been discovered that previously was not reasonably available to the party filing the motion.

2904.3 If the adult student or minor student’s parent or guardian did not receive actual notice of the hearing and DCPS has issued a final notice of disciplinary action, the adult student or minor student’s parent or guardian may file a request for reconsideration with DCPS, and request that DCPS:

- (a) Vacate the final notice;
- (b) Refer the case back to OAH for a hearing, and
- (c) Vacate the Findings of Fact and Conclusions of Law.

2904.4 DCPS may order a new hearing, or request OAH to decide whether to grant a new hearing, when deciding the request for reconsideration.

2905

OSSE CONTESTED RESIDENCY CASES – REFERRALS

2905.1

OSSE may refer a contested residency case to OAH for a final decision.

2906**OSSE CONTESTED RESIDENCY CASES – BEGINNING A CASE**

2906.1

OSSE shall refer a contested residency case to OAH by filing a copy of the exclusion letter given to the student's parent, custodian, guardian, or other primary caregiver and the request for review that OSSE received, along with a statement that OSSE requests OAH to hear and decide the case.

2907 OSSE CONTESTED RESIDENCY CASES – HEARINGS

- 2907.1 In all contested residency cases, OAH shall set the hearing date and issue the hearing notice.
- 2907.2 The Rules in Chapter 28 shall apply to all hearings in contested residency cases, except that parties shall file and serve the witness lists and exhibit lists required by § 2823.2 no later than five (5) calendar days before the hearing date. All exhibits filed by OSSE shall be marked with numbers for identification beginning with 200.
- 2907.3 The student’s parent, custodian, guardian, or other primary caregiver who is claiming District of Columbia residency has the burden of proving the student’s residency status for the purpose of deciding whether the student may enroll in a District of Columbia public school tuition free.

2908

OSSE CONTESTED RESIDENCY CASES – FINAL ORDERS

2908.1

The presiding Administrative Law Judge shall issue a final order in all contested residency cases, which shall include the statement of appeal rights required by § 2831.1.

2909**DCPS AND OSSE CASES – CONFIDENTIALITY OF THE RECORD**

2909.1

The OAH record in any case referred by DCPS or by OSSE shall be confidential. Only the following persons shall have access to that record:

- (a) The adult student or the adult student's representative;
- (b) The minor student's parent, guardian, or representative;
- (c) Any person who has the written consent of the adult student or the minor student's parent or guardian;
- (d) School officials with a legitimate official interest; and
- (e) The student's parent, custodian, or other primary caregiver claiming District of Columbia residency, or their representative in a contested residency case.

2910 DFHV HEARINGS – SCOPE

2910.1 Sections 2910 through 2913 shall govern procedures in cases adjudicated by OAH for Notices of Infraction issued by the District of Columbia (“District”) that are enforced by the District of Columbia Department of For-Hire Vehicles (DFHV).

2910.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2910 through 2913.

2911**DFHV – BEGINNING A CIVIL FINE CASE**

2911.1

When the District is seeking civil fines or sanctions under the District of Columbia Department of For-Hire Vehicles Establishment Act of 1985 (D.C. Official Code §§ 50-301.01 - .34) (“DFHV Act”):

- (a) The issuing agency of the Notice of Infraction may file it by entering it in the automatic ticket database presently maintained by the Department of Motor Vehicles (DMV). The day the Notice of Infraction data is entered into the DMV database shall be deemed the date of filing of the Notice of Infraction with OAH;
- (b) If the issuing agency serves a Notice of Infraction by first-class mail, it may not file the Notice of Infraction with OAH until it submits proof of delivery. When the issuing agency serves the Notice of Infraction by first-class mail, it shall also file an affidavit, on a form approved by the Chief Administrative Law Judge, verifying that the United States Postal Service (USPS) did not return the Notice of Infraction to the issuing agency;
- (c) If DFHV issues a Notice of summary or proposed denial, revocation, suspension or modification of a license, a Notice to cease and desist, or a Notice to take action, DFHV shall file the Notice with OAH promptly and serve it in the manner provided under the DFHV Act and implementing regulations. OAH shall schedule a hearing as required by law or on the request of the Respondent; or
- (d) If DFHV takes other actions under the DFHV Act or implementing regulations appealable to OAH, DFHV shall file the relevant Notice, Order, or Action with OAH and serve it in the manner provided under the DFHV Act and implementing regulations. If the DFHV Act and implementing regulations do not specify a manner of service, DFHV shall follow paragraph (b) of this Subsection.

2911.2

The signature of an issuing officer shall not be required on a Notice of Infraction issued from a hand-held electronic device; provided, that the officer's printed name, department, and badge number appear legibly on the face of the Notice of Infraction.

2912 DFHV – ANSWERS IN CIVIL FINE CASES

- 2912.1 In DFHV cases filed in the DMV automatic ticket database, the Respondent shall answer a Notice of Infraction (“Notice”) according to the instructions on the back of the Notice. The Respondent’s answer shall indicate whether the response to the Notice is Admit, Admit with Explanation, or Deny.
- 2912.2 The issuing agency shall have access to answers of Deny or Admit with Explanation in DFHV cases filed in the DMV automatic ticket database.
- 2912.3 In DFHV cases filed in the DMV automatic ticket database, OAH shall notify the issuing agency in writing of the hearing date and time selected by Respondent, either in writing or by calendaring the hearing in the DMV database. If Respondent does not select the date and time of the hearing, OAH shall notify the Respondent in writing of the date and time of the hearing.
- 2912.4 At least five (5) calendar days before any hearing date, the Respondent shall file with OAH copies of all exhibits that the Respondent intends to ask the Administrative Law Judge to consider at the hearing in the DMV database. An Administrative Law Judge may allow a Respondent to use exhibits at a hearing that the Respondent did not file or provide to the issuing agency before the hearing if there is no prejudice to the issuing agency.
- 2912.5 In DFHV cases filed in the DMV automatic ticket database, Respondent may file any materials supporting the answer of Admit with Explanation as to why the Respondent believes the Administrative Law Judge should reduce or suspend any fine or penalty through the DMV database.
- 2912.6 The issuing agency has access to the answer of Admit with Explanation and Respondent’s supporting materials through the DMV database. DFHV shall file any reply to the answer in the DMV database within twenty-one (21) days of the filing of the answer and shall also provide any reply to the Respondent.
- 2912.7 OAH shall schedule a hearing as required by law or on the request of the Respondent in a case involving a denial, revocation, suspension, or modification of a license issued under the DFHV Act; or any other order or action authorized under the DFHV Act, other than a Notice of Infraction. If the Respondent requests a hearing, OAH shall schedule the hearing as required by law or as soon as practicable. If DFHV does not appear for a hearing, the Administrative Law Judge may suspend the hearing and close the case.

2913**DFHV – DEFAULTS IN CIVIL FINE CASES**

- 2913.1 In DFHV cases filed under § 2911.1(b), if the USPS returns to the Clerk’s office a default order that was mailed to Respondent for reasons that call into question the accuracy of any affidavit filed under § 2911.1(b), (for example, “no such address,” “addressee unknown”), an Administrative Law Judge may issue an order requiring the issuing agency to show why the default order should not be vacated. If the issuing agency does not respond with sufficient evidence showing that it mailed the Notice to a valid address for the Respondent, the default order shall be vacated and the Notice of Infraction shall be dismissed.
- 2913.2 The default procedure shall be consistent with the applicable law in default cases brought under the DFHV Act and shall ensure that:
- (a) There is sufficient evidence of proper service on the Respondent; and
 - (b) The charging document meets all legal requirements on its face.
- 2913.3 A Respondent who fails to answer shall be held in default and shall pay the legally authorized fine and penalty. If the Administrative Law Judge does not find the Respondent in default, the Administrative Law Judge shall dismiss the Notice without prejudice.

2920 RENTAL HOUSING CASES – SCOPE

2920.1 Sections 2920 through 2942 shall govern procedures in rental housing cases, including rent stabilization cases under the Rental Housing Act and conversion and sale cases under the Rental Housing Conversion and Sale Act, at OAH.

2920.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2920 through 2942.

2921 RENTAL HOUSING CASES – BEGINNING A CASE

2921.1 A party may begin a rent stabilization case by filing a petition with the Rent Administrator in accordance with 14 DCMR § 3901.

2921.2 For conversion and sale cases,

(a) An aggrieved owner, tenant, or tenant organization may begin a conversion or sale case by filing a petition for declaratory relief with the Conversion and Sale Administrator in accordance with § 503a of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.03a.

(b) A party aggrieved by the rejection of an application pursuant to the Rental Housing Conversion and Sale Act may begin a case by filing a petition for reconsideration with the Conversion and Sale Administrator in accordance with § 504 of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.04.

(c) A party aggrieved by a temporary cease and desist order from unlawful practices under the Rental Housing Conversion and Sale Act may begin a case by filing a request for a hearing with the Conversion and Sale Administrator in accordance with § 506 of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.06.

(d) An owner aggrieved by the revocation of certification for conversion, or a tenant association aggrieved by the revocation of registration of a tenant organization, may begin a case by filing a request for a hearing with the Conversion and Sale Administrator in accordance with § 507 of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.07.

2921.3 The timeliness of the filing of any petition shall be measured from the date the Rent Administrator or the Conversion and Sale Administrator receives the petition for filing.

2921.4 For rent stabilization cases, the Rent Administrator may refuse to accept for filing a petition for rent stabilization cases as provided in 14 DCMR § 3901.

2921.5 After receiving the filing of a petition or request, the Rent Administrator or the Conversion and Sale Administrator shall forward the petition or request and all

accompanying papers to OAH, together with a copy of the registration statement for the housing accommodation.

2921.6 When OAH receives a petition or request from the Rent Administrator or the Conversion and Sale Administrator, OAH shall open the case. The parties then shall file all papers and attachments at OAH in accordance with § 2811.

2922 RENTAL HOUSING CASES – PARTIES

- 2922.1 Any petition or request that is filed on behalf of more than one person or entity shall individually name each person or entity.
- 2922.2 When neither the claim asserted nor the relief requested requires the participation of the individual tenant member, any tenant association may file and shall be granted party status to prosecute or defend a petition on behalf of any one or more of its members who have provided the association with written authorization to represent them in the action, or to seek on behalf of all members any relief available under the Rental Housing Act or the Rental Housing Conversion and Sale Act, as applicable.
- 2922.3 In order to establish the requisite standing to assert a claim in its name on behalf of its authorizing members in accordance with the Rental Housing Act or the Conversion and Sale Act, a tenant association that seeks to be named as a party in a petition or request shall file, along with the petition or request:
- (a) A list of all tenants who are members of the tenant association and parties to the petition or request, including each member's full name and unit number;
 - (b) Proof of tenancy for each tenant who is a member of the tenant association and seeks to be represented by it, by rent receipt, cancelled check, copy of lease agreement, or any other documentation accepted by the Rental Accommodations Division or the Rental Conversion and Sale Division, as applicable; and
 - (c) Written authorization from each tenant who is a member of the tenant association and seeks to be a party, giving the tenant association permission to represent the tenant.
- 2922.4 No inquiry into the membership of the association beyond the information required by § 2922.3 shall be permitted. Failure to provide the information in § 2922.3 is grounds to deny party status to a tenant association.
- 2922.5 Any tenant association that is a party to the action pursuant to § 2922.2 shall be listed in the caption.
- 2922.6 For rent stabilization cases, the housing provider as listed on the registration statement, if any, shall be a party, and shall be named in the caption. If a managing agent represents the housing provider in the proceeding, the managing agent also shall be a party, and shall be identified as the managing agent and named in the caption.

2922.7

For rental housing conversion and sale cases, in a petition for declaratory relief against an owner, the owner as listed on the certification statement for conversion or on the offer of sale, if any, shall be a party, and shall be named in the caption.

2923 RENTAL HOUSING CASES – SENDING NOTICE

2923.1 OAH shall notify the parties of proceedings by first-class mail or by email.

2923.2 For rent stabilization cases, OAH shall mail a copy of any tenant petition by first-class mail or by email to any adverse party named in the tenant petition and to the housing provider listed on the registration statement for the housing accommodation.

2923.3 For rent stabilization cases, a housing provider who files a petition shall provide for each tenant in the housing accommodation one copy of the petition and one envelope addressed to each tenant by name, address, and rental unit, with first class mail postage prepaid. The envelope shall bear OAH's return address unless the housing provider files a hardship petition or voluntary agreement. The envelopes for those petitions shall bear the return address of the Rent Administrator.

2923.4 For rent stabilization cases, if a housing provider files a petition for a building with ten (10) or more rental units, the housing provider shall provide a hard copy and computer file of a service list containing the name, address, and rental unit for each tenant. The computer file shall be in Microsoft Word format, arranged so that the list may be printed onto labels measuring one inch by two and five-eighths (2 5/8) inches.

2923.5 For conversion and sale cases involving a petition for declaratory relief against an owner, OAH shall mail a copy of any petition by first-class mail or by email to any adverse party named in the petition and, if needed, to the owner listed on the certification statement for conversion or on the offer of sale.

2924**RENTAL HOUSING CASES – SERVICE**

2924.1

For rent stabilization cases, every paper filed at OAH shall be served in accordance with § 904 of the Rental Housing Act (D.C. Official Code § 42-3509.04), as follows:

- (a) By handing the paper to the person, by leaving it at the person's place of business with some responsible person in charge, or by leaving it at the person's usual place of residence with a person of suitable age and discretion;
- (b) By telegram, when the content of the information or document is given to a telegraph company properly addressed and prepaid;
- (c) By mail or deposit with the USPS properly stamped and addressed; or
- (d) By any other means that is in conformity with an order of the Rental Housing Commission (Commission) or OAH in any proceeding.

2924.2

For conversion and sale cases, every paper filed at OAH shall be served in accordance with § 508 of the Rental Housing Conversion and Sale Act (D.C. Official Code § 42-3405.08), which allows papers to be served by registered mail or in any other authorized manner reasonably calculated to give actual notice.

2925

RENTAL HOUSING CASES – CALCULATING DEADLINES

2925.1

Section 2813 shall govern the calculation of deadlines. For rent stabilization cases, the timeliness of any appeal to the Commission shall be governed by the Commission Rules in 14 DCMR § 3802.

2926 RENTAL HOUSING CASES – CONCILIATION, ARBITRATION, AND MEDIATION

2926.1 For rent stabilization cases, the parties may request conciliation or arbitration of any dispute by the RAD in accordance with its regulations.

2926.2 The parties may request, or an Administrative Law Judge may order, mediation of any dispute pursuant to § 2820.

2927 RENTAL HOUSING CASES – SUBSTITUTION OR ADDITION OF PARTIES

2927.1 An Administrative Law Judge may substitute or add a party under § 2807.1 if: a party dies; a party entity is dissolved or reorganized; a party entity's ownership or interest changes; or, for rent stabilization cases, an amended registration statement for the housing accommodation is filed under 14 DCMR § 4103.

2927.2 If a party has been incorrectly named, the Administrative Law Judge may substitute or add the correct party under § 2807.1.

2928

RENTAL HOUSING CASES – INTERVENORS

2928.1

Sections 2807.2 and 2807.3 shall govern motions for intervention.

2929 RENTAL HOUSING CASES – AMENDMENT OF PETITIONS, CONSOLIDATION OF PETITIONS AND EXPANDING THE SCOPE OF A PROCEEDING

- 2929.1 An Administrative Law Judge may consolidate (join) two (2) or more petitions if they present identical or similar issues, involve the same rental unit or housing accommodation, or involve other circumstances in which consolidation would be expedient and would not prejudice the parties. A party may file a motion to consolidate, or an Administrative Law Judge may consolidate, cases on his or her own motion.
- 2929.2 If the Administrative Law Judge determines that the issues raised in a petition or request may affect other tenants or all tenants in the housing accommodation, the Administrative Law Judge may expand the scope of the proceeding to include all affected tenants.
- 2929.3 Before expanding the scope of the proceeding, the Administrative Law Judge shall provide notice to the affected tenants and the housing provider or owner.
- 2929.4 Notice under § 2929.3 shall state the issues to be decided and shall advise the tenants that they have a right to participate in the proceedings and that any decision shall be binding on them.
- 2929.5 Tenants and the housing provider or owner may present arguments in support of or opposition to expanding the scope of the proceeding.
- 2929.6 A party may amend a petition to add additional allegations after the petition has been transferred to OAH, but before the hearing concludes, by moving to amend the petition with the presiding Administrative Law Judge. The motion shall state the allegations to be added and the factual basis for those allegations. No written motion to amend shall be considered unless it recites that the movant sought to obtain the consent of parties affected, and that the consent was granted or denied, including the identity of the party or parties who declined to consent. If the movant does not obtain a response from the opposing party, the movant shall demonstrate that the movant made a good faith effort in accordance with § 2817.5.
- 2929.7 In determining whether a motion to amend a petition should be granted, the Administrative Law Judge shall consider:
- (a) the number of requests to amend;
 - (b) the length of time that the case has been pending;
 - (c) the presence of bad faith or dilatory reasons for the request;
 - (d) the merit of the proffered amendment;

- (e) any prejudice to the non-moving party; and
- (f) the orderly administration of justice.

2930**RENTAL HOUSING CASES – HEARINGS**

2930.1

A petition received by OAH shall be treated as a request for a hearing. OAH shall schedule a status conference, a hearing, or mediation after receiving the petition. OAH shall notify the parties of the hearing date and of their right to obtain a lawyer at least fifteen (15) calendar days before a hearing.

2930.2

An Administrative Law Judge may dismiss any petition or any claim in a petition without holding a hearing if the Rental Housing Act or the Rental Housing Conversion and Sale Act, as applicable, does not provide relief for the claim(s). The Administrative Law Judge shall first give the parties notice and an opportunity to respond.

2931 RENTAL HOUSING CASES – RENT ADMINISTRATOR’S SHOW CAUSE ORDERS

2931.1 For rent stabilization cases, if the Rent Administrator concludes after investigation that a housing provider has violated the Rental Housing Act, the Rent Administrator may file an order to show cause with OAH and shall serve the housing provider with a copy of the order to show cause.

2931.2 The order to show cause shall specify the sections of the Rental Housing Act or rules that the housing provider has allegedly violated and shall describe the evidence that supports the Rent Administrator’s assertions and the proposed corrective action or sanction.

2931.3 Once the Rent Administrator files the order to show cause, the case shall proceed under this chapter.

2932 RENTAL HOUSING CASES – BURDEN OF PROOF

2932.1 The proponent of an order shall have the burden of proof.

2932.2 For rent stabilization cases:

- (a) The tenant has the burden to prove the claims alleged in a tenant petition except that the housing provider has the burden to prove entitlement to any exemption under the Rental Housing Act.
- (b) The housing provider has the burden to prove the claims alleged in a housing provider petition.
- (c) In show cause hearings in rent stabilization cases, the burden of proof shall rest on the Rent Administrator.
- (d) In retaliation cases, the tenant has the burden of proving that retaliation occurred or that a presumption applies. If a presumption applies, then the housing provider has the burden to rebut the presumption by clear and convincing evidence.
- (e) In security deposit cases, if the tenant seeks an order to have the security deposit returned, the tenant shall prove the amount of the security deposit paid and that the security deposit was not returned. If the housing provider seeks an order to withhold all or a portion of the security deposit, the housing provider shall prove the reasons for the withholding.

2932.3 For conversion and sale cases:

- (a) In cases involving petitions for declaratory relief, the petitioner has the burden to prove the claims alleged in the petition.
- (b) In cases involving the rejection of an application, a temporary cease and desist order, or the revocation of a certificate or registration, the agency has the burden to prove facts justifying the action.

2932.4 Unless otherwise provided by law, a party shall prove each fact essential to his or her claim by a preponderance of the evidence so that the Administrative Law Judge finds that it is more likely than not that each fact is proven.

2933 RENTAL HOUSING CASES – PAPERS FILED WITH THE RAD, CASD, OR OTHER AGENCIES

2933.1 Any party shall introduce a copy of that document into evidence the party who wishes the Administrative Law Judge to consider a document that is on file with the RAD, Conversion and Sale Division (CASD), or any other District of Columbia agency. The Administrative Law Judge shall admit the document into evidence if he or she finds that it is relevant and is an accurate copy of a document on file with the RAD, CASD, or other agency.

2933.2 A party can establish that a document is an accurate copy of a document on file with RAD, CASD, or other agency by:

- (a) Providing a copy with a legible original file stamp;
- (b) Providing a copy with a legible copy of the original file stamp;
- (c) Providing a copy certified by the Rent Administrator, Conversion and Sale Administrator, or an authorized employee of RAD or CASD;
- (d) Providing testimony or other evidence that the Administrative Law Judge finds satisfactory; or
- (e) Consent of all parties to the admission of the document into evidence.

2934**RENTAL HOUSING CASES – SUBPOENAS AND DISCOVERY**

2934.1

In rent stabilization cases, the Clerk shall issue no more than three subpoenas to the tenant side and no more than three (3) subpoenas to the housing provider side under § 2824.5 to compel:

- (a) The appearance at a hearing of any witnesses, including housing inspectors, with knowledge of conditions, repairs, or maintenance in a party's rental unit or any common areas for the three-year (3) period immediately before the filing of the petition with the Rent Administrator;
- (b) The production at or before a hearing of all records not created by a government agency, relating to conditions, repairs, or maintenance to a party's rental unit or any common areas for the three-year (3) period immediately before the filing of the petition with the Rent Administrator;
- (c) The production at or before a hearing of housing violation notices in the possession of the District of Columbia Department of Buildings or the District of Columbia Department of Licensing and Consumer Protection relating to a party's rental unit or any common areas for the three-year (3) period immediately before the filing of the petition with the Rent Administrator; and
- (d) The production at or before a hearing of all records in a housing provider's possession relating to any rent increases demanded or implemented for a party's rental unit for the three-year (3) period immediately before the filing of the petition with the Rent Administrator.

2934.2

Section 2824 shall apply to all other subpoenas for witnesses and documents at hearings in rental housing cases.

2934.3

Section 2821 shall apply to discovery in all rental housing cases.

2935 RENTAL HOUSING CASES – REPRESENTATION

2935.1 Persons authorized to appear before OAH by §§ 2808 and 2810 may represent parties in rental housing cases.

2935.2 A tenant association may represent one or more tenants in any proceeding as follows:

- (a) A statement shall be filed with OAH stating that the tenant consents to representation by the tenant association and the tenant association consents to represent the tenant;
- (b) A tenant or a tenant association may revoke the consent by filing a statement to that effect;
- (c) A tenant association shall designate one or more members or attorneys to represent the association and any of the tenants it represents;
- (d) A tenant association may elect to proceed only in a representative capacity without being listed as a party or listed in the caption.

2935.3 The provisions of §§ 2808 and 2810 concerning discipline of persons appearing before OAH shall apply to all representatives in rental housing cases.

2935.4 If an Administrative Law Judge decides that a proceeding is so complex, or the potential liability is so great that a party should be represented by a lawyer, the Administrative Law Judge shall explain to the party the advantages of obtaining a lawyer and offer to continue the case to give the party an opportunity to obtain a lawyer.

2936 RENTAL HOUSING CASES – APPEALS BEFORE A FINAL ORDER IN RENT STABILIZATION CASES

2936.1 An Administrative Law Judge’s rulings in a rent stabilization proceeding ordinarily may not be appealed to the Commission until a final order is issued. Before a final order is issued, a party may appeal an order of the Administrative Law Judge only if the Administrative Law Judge certifies the ruling for appeal to the Commission.

2936.2 A party may move the Administrative Law Judge to certify to the Commission an appeal of any ruling other than a final order. Such an appeal is an “interlocutory appeal.”

2936.3 The Administrative Law Judge shall certify a ruling for interlocutory appeal only if he or she determines that the issue presented is of such importance to the proceeding that it requires the immediate attention of the Commission, and only if the following are shown:

- (a) The ruling involves an important question of law or policy requiring interpretation of the Rental Housing Act, and about which there is substantial basis for difference of opinion; and
- (b) Either of the following applies:
 - (1) An immediate ruling will materially advance the completion of the proceeding; or
 - (2) Denial of an immediate ruling will cause undue harm to the parties or the public.

2936.4 A party seeking review by interlocutory appeal shall file a motion for certification within five (5) calendar days of service of a ruling by the Administrative Law Judge. The opposing party shall have five (5) calendar days in which to respond. Unless extended by a written order, the Administrative Law Judge shall rule on the motion within ten (10) calendar days following the filing of any response.

2936.5 If the Administrative Law Judge declines to certify a ruling, the Commission may review that ruling on appeal from a final order.

2936.6 The Administrative Law Judge may stay the proceeding while an interlocutory appeal is pending.

2937 RENTAL HOUSING CASES – INITIAL DECISIONS AND FINAL ORDERS

- 2937.1 For rent stabilization cases, after the close of the record in a case involving a tenant or housing provider petition, the Administrative Law Judge shall issue a final order.
- 2937.2 For rental housing conversion and sale cases, after the close of the record in cases involving petitions for declaratory relief pursuant to D.C. Official Code § 42-3405.03a, the Administrative Law Judge shall issue a final order.
- 2937.3 For rental housing conversion and sale cases, after the close of the record in cases involving the rejection of applications pursuant to D.C. Official Code § 42-3405.04, temporary cease and desist orders pursuant to D.C. Official Code § 42-3405.06, or a revocation of certifications or registrations pursuant to D.C. Official Code § 42-3405.07, the Administrative Law Judge shall issue an initial decision, pursuant to D.C. Code § 42–3405.08.
- 2937.4 OAH shall serve all initial decisions or final orders, as applicable, on the parties by first-class mail or by email. OAH shall also serve:
- (a) For rent stabilization cases, OAH also shall serve all final orders on the Rent Administrator and the Commission; or
 - (b) For conversion and sale cases, OAH shall serve all initial decisions and final orders on the Conversion and Sale Administrator.

2938 RENTAL HOUSING CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER

- 2938.1 Motions for reconsideration of an initial decision, reconsideration of a final order, a new hearing, or relief from a final order shall be decided in accordance with § 2830.
- 2938.2 For rental housing conversion and sale cases, any party may request reconsideration of an initial decision issued pursuant to D.C. Official Code § 42–3405.08.
- 2938.3 (a) Motions for reconsideration of an initial decision shall be filed with OAH within ten (10) calendar days of the date of service of the initial decision.
- (b) If any party files a motion for reconsideration of an initial decision within the ten (10) calendar day deadline, the Conversion and Sale Administrator cannot issue a final decision for purposes of appeal to the D.C. Court of Appeals until the Administrative Law Judge rules on the motion.
- 2938.4 If any party files a motion for reconsideration or for a new hearing within the ten (10) calendar day deadline specified in § 2830.3, an Order shall not be final for purposes of appeal to the Commission or the D.C. Court of Appeals, as applicable, until the Administrative Law Judge rules on the motion. The motion shall state whether an appeal has been filed with the Commission or the D.C. Court of Appeals, as applicable. If an appeal has been filed, OAH has no jurisdiction to decide the motion absent a remand for that purpose.
- 2938.5 Any motion for relief from final order has no effect on the deadline for appealing to the Commission or the D.C. Court of Appeals, as applicable. If an appeal has been filed, OAH has no jurisdiction to decide a motion for relief from final order absent a remand for that purpose.

2939 RENTAL HOUSING CASES – APPEALS

2939.1 For rent stabilization cases, the Administrative Law Judge’s final order is appealable to the Commission. A party shall file a petition for review by the Commission within ten (10) business days of the date of service of the final order.

2939.2 For conversion and sale cases,

- (a) In cases involving the rejection of applications pursuant to D.C. Official Code § 42-3405.04, temporary cease and desist orders pursuant to D.C. Official Code § 42-3405.06, or a revocation of certifications or registrations pursuant to D.C. Official Code § 42-3405.07, the Administrative Law Judge’s initial decision is not appealable to the D.C. Court of Appeals. If no party requests reconsideration within the ten (10) calendar day deadline, or following an Administrative Law Judge’s decision on reconsideration, the Conversion and Sale Administrator shall adopt and render the initial decision as a final decision and serve upon each party a final order pursuant to D.C. Official Code § 42-3405.08. The Conversion and Sale Administrator’s final order is appealable to the D.C. Court of Appeals;
- (b) In cases involving petitions for declaratory relief pursuant to D.C. Official Code § 42-3405.03a, the Administrative Law Judge’s final order is appealable to the D.C. Court of Appeals; and
- (c) For all appealable final orders, a party shall file a petition for review in the D.C. Court of Appeals within fifteen (15) calendar days of the date of service of the final order.

2940 RENTAL HOUSING CASES – OFFICIAL RECORD OF A PROCEEDING

2940.1 The official record of a proceeding shall consist of the following:

- (a) The final order and any other orders or notices of the Administrative Law Judge;
- (b) The recordings or any transcripts of the proceedings before the Administrative Law Judge;
- (c) All papers and exhibits offered into evidence at the hearing; and
- (d) All papers filed by the parties or the Rent Administrator or Conversion and Sale Administrator, as applicable, at OAH.

2940.2 Documents attached to a petition or other filings shall be offered and received in evidence at a hearing before the Administrative Law Judge can use them to establish facts.

2941 RENTAL HOUSING CASES – ATTORNEY’S FEES IN RENT STABILIZATION CASES

- 2941.1 All motions for an award of attorney’s fees shall be filed within thirty (30) calendar days of service of the final order. But if a timely motion for reconsideration is filed, a motion for an award of attorney’s fees shall be filed within thirty (30) days of the service date of the order deciding the motion.
- 2941.2 The motion shall state whether an appeal has been filed with the Commission. If an appeal has been filed, OAH has no jurisdiction to decide the motion and it shall be held in abeyance until all appeals of the final order are exhausted.
- 2941.3 If a party did not prevail before OAH but does so in an appeal to the Commission without remand, the party may file a motion for attorney’s fees incurred before OAH within thirty (30) calendar days of the service date of the Commission’s decision.
- 2941.4 A party moving for an award of attorney’s fees has the burden of proving the amount of the award with substantial evidence of the hours of services provided and the rates charged for those services. Motions for attorney’s fees shall be decided in accordance with the Commission’s standards as provided in Title 14 of the DCMR.

2942 RENTAL HOUSING CASES – INTEREST ON SECURITY DEPOSITS IN RENT STABILIZATION CASES

2942.1 In any case in which a tenant claims entitlement to interest on a security deposit under D.C. Official Code § 42-3502.17(b), the tenant shall produce evidence of the amount of the security deposit that was given to the housing provider, the date on which it was given, and amount of interest, if any, paid to the tenant.

2942.2 If the tenant meets the requirements of § 2924.1, the housing provider shall produce evidence of the amount of interest that was earned on the security deposit.

2942.3 If the housing provider fails to produce evidence of the amount of interest that was earned, or the security deposit was not held in an interest-bearing account, the Administrative Law Judge shall compute interest by applying the Superior Court of the District of Columbia judgment rate prevailing on January 1st and on July 1st for each six-month (6) period (or part thereof) of the tenancy.

2950 PUBLIC SECTOR WORKERS' COMPENSATION CASES – SCOPE

2950.1 Sections 2950 through 2956 shall govern OAH hearings of appeals of certain Public Sector Workers' Compensation decisions of the District of Columbia Office of Risk Management (ORM).

2950.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2950 through 2956.

2950.3 OAH shall hear the following appeals from ORM:

- (a) Initial awards for or against compensation benefits pursuant to D.C. Official Code § 1-623.24(b);
- (b) Appeals of overpayment determinations under D.C. Code § 1-623.29(b-1)(1);
- (c) Modifications of awarded benefits pursuant to D.C. Official Code § 1-623.24(d); and
- (d) Requests for determinations of whether a claimant has a permanent disability pursuant to D.C. Official Code § 1-623.06a.

2951 PUBLIC SECTOR WORKERS' COMPENSATION — BEGINNING A CASE

- 2951.1 Appeals shall be initiated by filing a written hearing request at OAH. The request may be made on a form supplied by the Public Sector Workers' Compensation Program (the Program) and approved by OAH. A hearing request shall contain:
- (a) The name, address, and email address of the claimant and of the claimant's representative, if any;
 - (b) The type of claim;
 - (c) Claimant's employing agency when the injury occurred;
 - (d) A statement that the person signing the hearing request has read it and attests that the contents are true and accurate to the best of his or her knowledge;
 - (e) The signature of the claimant or the claimant's representative, if any;
 - (f) The specific nature and extent of the relief sought;
 - (g) A statement that the person signing the hearing request has read it and attests that the contents are true and accurate to the best of his or her knowledge; and
 - (h) The signature of the claimant or the claimant's representative, if any.
- 2951.2 A hearing request shall be accompanied by a copy of the decision being appealed or a copy of the Notice of Benefits Cap for appeals under D.C. Official Code § 1-623.06a if one has been issued.
- 2951.3 The claimant or claimant's representative shall sign the request for hearing and file it with OAH within thirty (30) days of service of the decision. Section 2811 prescribes procedures for filing.
- 2951.4 No hearing request shall exceed fifteen (15) pages, exclusive of the cover page. The Clerk may reject hearing requests that do not conform to these Rules.
- 2951.5 The presiding Administrative Law Judge may excuse a claimant's failure to comply with the specific requirements of this Section.

2952**PUBLIC SECTOR WORKERS' COMPENSATION — SCHEDULING**

2952.1

After a hearing request is filed, OAH shall send a copy to the Program and may issue a scheduling order for a status conference. At the status conference, the Administrative Law Judge shall ordinarily issue an order establishing deadlines for the following discovery and hearing activities:

- (a) Serving and filing of Discovery Requests, including designation of expert witnesses and exchange of witness reports, if any;
- (b) Scheduling of depositions of the parties and witnesses;
- (c) Close of Discovery;
- (d) Filing of a Joint Pre-Hearing Statement, including designation of all witnesses that a party proposes to call at the hearing and a list of all exhibits the party proposes to offer into evidence. Copies of all proposed exhibits shall be served on the other party and filed with the Court together with the Joint Pre-Hearing Statement;
- (e) Deadline for any Motions *in Limine* and responses;
- (f) Date and time of the Pre-Hearing Conference; and
- (g) Date and time of the Hearing.

2952.2

The following provisions shall be deadlines for Discovery:

- (a) Discovery Requests. No interrogatories, requests for admission, requests for production or inspection, or other discovery requests may be served after the deadline for discovery requests without approval of an Administrative Law Judge;
- (b) Depositions. Depositions for any purpose shall be noticed at least ten (10) days before the scheduled deposition date and the deposition date shall be before the close of discovery;
- (c) Exchange Lists of Fact Witnesses. On or before the applicable scheduling order deadline(s), each party shall serve and file a list of all the party's fact witnesses, including the address, and telephone number, if available. No witness who is not designated in the lists may be called to testify at the hearing except for impeachment or rebuttal or upon a showing that the party did not learn of the witness until after the deadline. For good cause, an Administrative Law Judge may allow an undesignated witness to testify if allowing the testimony shall not unduly prejudice the opposing party;

- (d) Expert Witness Report. If either party intends to offer an expert opinion, the opposing party may require the party to submit a report of the expert's testimony in accordance with § 2954.2. A treating physician may give opinion testimony about the cause and extent of a claimant's disability without having to prepare a report; and
- (e) Close of Discovery. No deposition or other discovery may be had after the applicable scheduling order deadline except by permission of an Administrative Law Judge upon a showing of good cause.

2952.3

The presiding Administrative Law Judge may schedule continued status conferences and extend discovery deadlines as may be appropriate. Before filing a motion to extend discovery, or to reschedule a status conference, a party shall seek consent of the opposing party as required by § 2817.5.

2953 PUBLIC SECTOR WORKERS' COMPENSATION — PRE-HEARING CONFERENCE

2953.1 In accordance with the scheduling order, the parties shall file a Joint Pre-Hearing Statement that includes the following:

- (a) A joint statement of the case, including all stipulated facts;
- (b) A statement of the remaining issues in dispute;
- (c) A statement of any objections to admissibility of proposed exhibits, including the specific grounds for the objections;
- (d) A list of each party's proposed witnesses, excluding witnesses offered solely for impeachment or rebuttal;
- (e) A list of the exhibits each party proposes to offer, together with a copy of the exhibit. Claimants' exhibits shall be numbered 100 through 199. Agency exhibits shall be numbered 200 through 299. The parties are encouraged, but not required, to number the pages of the cumulative exhibits consecutively (Bates stamped), to avoid confusion about page references in the record; and
- (f) Designation of portions of deposition transcripts and discovery responses to be used at the Hearing (except for transcripts of depositions of expert witnesses).

2953.2 Each party shall serve and file any Motion *in Limine* or other motion concerning the conduct of the Hearing prior to the applicable scheduling order deadline.

2953.3 At the Pre-Hearing Conference the Administrative Law Judge shall discuss and make rulings on the following matters:

- (a) Whether the parties will agree to additional stipulations of fact or to the admissibility of exhibits;
- (b) The need to exchange any additional medical or vocational reports or other documents;
- (c) The approximate time that each party will require for the Hearing and whether it may be appropriate to set time limits or to limit the number of witnesses;
- (d) Resolution of any pending motions;
- (e) Whether the Hearing will be conducted in person, via videoconference, or via teleconference;

- (f) Whether interpreters will be needed; and
- (g) Any other matters that may be appropriate.

2954 PUBLIC SECTOR WORKERS' COMPENSATION — DISCOVERY

2954.1 Each party shall disclose the identity and proposed testimony of any expert witness in accordance with the scheduling order issued pursuant to § 2952.1.

2954.2 Unless otherwise stipulated, any Expert Witness Report shall contain the following:

- (a) A statement of all opinions the witness will express and the basis for those opinions;
- (b) The data or other information considered by the witness in forming them;
- (c) Any exhibits that will be used to summarize or support them;
- (d) The witnesses' qualifications, including a list of all publications authored in the previous ten (10) years;
- (e) A list of all other cases in which, during the previous four (4) years, the witness testified as an expert at trial or by deposition;
- (f) A statement of the compensation to be paid for the study and testimony in the case; and
- (g) The following certification signed by the witness: "I hereby certify that this report is a complete and accurate statement of all my opinions, and the basis and reasons for them, to which I will testify under oath."

2954.3 A party may depose any person who has been identified as an expert and whose opinions may be presented at the Hearing.

2954.4 Interrogatories. Unless otherwise stipulated or ordered, a party may serve on any other party no more than twelve (12) written interrogatories, including subparts. The interrogatories shall be answered as follows:

- (a) By the party to whom they are directed or, if by the District, by any officer or agent, who shall furnish the information available to the party;
- (b) The responding party shall serve answers or objections within twenty-one (21) days after being served;
- (c) Objections to interrogatories shall be stated specifically. Each interrogatory shall, to the extent it is not objected to, be answered separately and fully in writing under oath. Answers and objections shall identify and quote each interrogatory in full immediately preceding the answer or objection;
- (d) The person who makes the answers shall sign them, and the attorney who objects shall sign any objections; and

- (e) If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records, including electronically stored information, and if the burden of deriving or ascertaining the answer is substantially the same for either party, the responding party may answer by:
 - (1) Specifying the records that shall be reviewed in sufficient detail to enable the interrogating party to locate them as readily as the responding party; and
 - (2) Giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

2954.5 Requests for Production of Documents. Requests shall be made and responded to in accordance with D.C. Superior Court Civil Rule 34.

2954.6 Requests for Admission. Unless otherwise stipulated or ordered, a party may serve no more than fifteen (15) requests for admission on the other party. Requests shall be made and responded to in accordance with D.C. Superior Court Civil Rule 36.

2954.7 Depositions. Depositions shall be conducted in accordance with D.C. Superior Court Civil Rules 30 and 31.

2954.8 Motions to Compel Discovery. No party shall file a Motion to Compel Discovery without permission of the presiding Administrative Law Judge. Permission shall be granted only after the parties or counsel have conferred in an effort to resolve the dispute or a party or counsel has made at least three (3) attempts to contact the opposing party or counsel without success to set up a meeting to confer.

- (a) If the parties are unable to resolve the dispute after discussing it for a reasonable period, they shall request a telephone conference with the presiding Administrative Law Judge.
- (b) If the dispute cannot be resolved by conference call with the Administrative Law Judge, the Administrative Law Judge may direct the moving party to file a motion to compel discovery.
- (c) Before filing a Motion to Compel Discovery without having conferred with the opposing party or counsel, the moving party or counsel shall submit a written description of three separate attempts to contact the opposing party or counsel by telephone or email, including dates and times, and describe any response that was received. If an Administrative Law Judge finds that a party has made a good faith effort to resolve the issue, the Administrative Law Judge may direct the moving party to file a Motion to Compel

Discovery. The Administrative Law Judge may also impose appropriate sanctions on the opposing party.

- (d) Any Motion to Compel Discovery shall state specifically the Discovery that was requested, and any objections raised by the opposing party and specify the information or documents that the opposing party declined to provide.
- (e) An opposing party may respond to a Motion to Compel Discovery within the time specified in § 2813.6 or such other time as the presiding Administrative Law Judge shall specify.

2954.9

Sanctions. If the District's Motion to Compel Discovery is granted, in addition to other sanctions that the presiding Administrative Law Judge may impose, the Administrative Law Judge shall deduct any reasonable expenses, costs, and fees incurred by the District, including attorney's fees, from any award of attorney's fees to the Claimant.

2955 PUBLIC SECTOR WORKERS' COMPENSATION — HEARINGS

2955.1 The rules for hearings and evidence set forth in § 2823 shall apply to Public Sector Workers' Compensation hearings except as modified in this Section.

2955.2 All hearings shall be recorded. Any party may obtain a copy of the recording in accordance with § 2828.2. Except where OAH is required by law to prepare a transcript, parties who want written transcripts shall prepare them at their own expense in accordance with § 2828.3.

2955.3 The party with the ultimate burden of proof ordinarily shall go first, but the presiding Administrative Law Judge may change the order of presentation to accommodate the availability of witnesses or the needs of the parties.

2956 PUBLIC SECTOR WORKERS' COMPENSATION — ATTORNEY'S FEES

2956.1 An attorney who has represented a claimant who seeks to recover attorney's fees shall file a motion within thirty (30) days of the issuance of a final decision. The motion shall contain the following information:

- (a) An itemized description of each service rendered, including the date and the amount of time spent. Time shall be recorded in intervals of no greater than ¼ hour. Intervals of one-tenth (1/10) hour are preferred;
- (b) The amount of the fee which the attorney seeks; and
- (c) A statement explaining the basis for the requested fee.

2956.2 In determining the amount of any award, the Administrative Law Judge shall consider at least the following factors:

- (a) The nature, novelty, and complexity of the case;
- (b) The time and labor required;
- (c) The amount of benefits awarded;
- (d) Customary local charges for similar services; and
- (e) The professional qualifications of the attorney or other representative.

2956.3 Claims for attorney's fees are governed by D.C. Official Code § 1-623.27 and the Public Sector Workers' Compensation Benefits Rule on Attorney's Fees, 7 DCMR § 162.

2970 PUBLIC BENEFITS CASES – SCOPE

2970.1 Sections 2970 through 2979 shall govern hearings requested by individuals, other than service providers, concerning the following benefits:

- (a) Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;
- (b) Temporary Assistance for Needy Families (TANF);
- (c) Supplemental Nutrition Assistance Program (SNAP) (formerly Food Stamps);
- (d) Interim Disability Assistance;
- (e) Shelter and services for homeless persons;
- (f) Rental Assistance programs;
- (g) General Assistance for Children;
- (h) Child Care Subsidy;
- (i) Program on Work, Employment, and Responsibility (POWER);
- (j) Burial Assistance;
- (k) Any other benefits provided by the District of Columbia Department of Human Services (DHS);
- (l) Low Income Home Energy Assistance Program benefits provided by the District of Columbia Office of Energy and the Environment (DOEE);
- (m) Vocational Rehabilitation Services;
- (n) Randolph Sheppard Vending Facilities Program (RSVFP); and
- (o) Benefits subject to a complaint made under the District of Columbia Department of Disability Services' (DDS) Formal Complaint Process.

2970.2 Sections 2970 through 2979 also shall govern hearings requested by DHS when it seeks to disqualify someone from receiving SNAP (formerly Food Stamps) benefits due to an intentional program violation.

2970.3 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2970 through 2979.

2970.4 If there is a conflict between any federal law or regulation and anything in these Rules, the federal law or regulation shall control.

2970.5 If there is a conflict between any District of Columbia statute and these Rules, the District of Columbia statute shall control.

2970.6 If there is a conflict between any other agency's procedural rules or regulations and these Rules, these Rules shall control.

2971 PUBLIC BENEFITS CASES – BEGINNING A CASE

2971.1 A person can request a hearing by e-mailing, filing via eFiling portal, mailing, or bringing a written request to OAH, or by making an oral request in person at OAH or by telephone to OAH. OAH’s email address is oah.filing@dc.gov; its telephone number is 202-442-9094; and its street and mailing address is Office of Administrative Hearings, One Judiciary Square, 441 4th Street, NW, Suite 450 North, Washington, DC 20001.

2971.2 Hearing request forms shall be available at OAH (including on its website), at all DHS service centers, at the District of Columbia Department of Health Care Finance (DHCF), at DOEE, at the Division of Early Childhood Education at OSSE, and at DDS, Rehabilitation Services Administration.

- 2971.3 (a) A hearing request shall describe:
- (1) The type(s) of benefits involved;
 - (2) The action or inaction to which the person objects; and
 - (3) The name and, to the extent available, the telephone number, mailing address, and e-mail address of the person requesting a hearing.
- (b) Persons who request a hearing under the Homeless Services Reform Act may provide only an e-mail address at which they can receive any papers in the case, including notices and orders, if they do not have a street address or post office box where they can receive mail.
- (c) If available, a copy of the agency’s notice of its action or decision shall be attached to the hearing request. A hearing request that does not contain a copy of the notice shall not be rejected on that basis alone.

2971.4 To make a hearing request in writing, a person may email, file via eFiling portal, mail, or bring a written request to:

- (a) A DHS;
- (b) DHCF for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;
- (c) DOEE for a hearing concerning Low Income Home Energy Assistance Program benefits (LIHEAP);
- (d) A shelter or other service provider for a hearing under the Homeless Services Reform Act;

- (e) The Division of Early Childhood Education at OSSE for a hearing concerning childcare benefits;
- (f) DDS, Rehabilitation Services Administration, for a hearing concerning vocational rehabilitation services; or
- (g) OAH.

2971.5 To make a hearing request in person, a person may visit:

- (a) A DHS service center;
- (b) DHCF, or the Office of the Health Care Ombudsman and Bill of Rights, for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia, or the Aging and Disability Resource Center for a hearing concerning the Elderly and Persons with Physical Disabilities (EPD) waiver program;
- (c) DOEE, for a hearing concerning Low Income Home Energy Assistance Program benefits (LIHEAP);
- (d) The Division of Early Childhood Education at the OSSE, for a hearing concerning childcare benefits;
- (e) DDS, Rehabilitation Services Administration, for a hearing concerning vocational rehabilitation services; or
- (f) OAH.

2971.6 To make a hearing request by telephone, a person may call:

- (a) DHS;
- (b) DHCF, for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;
- (c) The Division of Early Childhood Education at OSSE, for a hearing concerning child-care benefits; or
- (d) DDS, Rehabilitation Services Administration, for a hearing concerning vocational rehabilitation services; or
- (e) OAH.

- 2971.7 If the agency or service provider receives a written hearing request, it shall file the request with OAH within three (3) calendar days of receiving the request.
- 2971.8 If the agency or service provider receives an oral or telephone hearing request, it shall prepare and file a hearing request form with OAH within three (3) calendar days of receiving the request.
- 2971.9 If OAH receives a written hearing request from an individual, it shall send the request to any agency or service provider whose decision is being challenged.
- 2971.10 If OAH receives an oral or telephone hearing request from an individual, it shall complete a written summary of the request and send it to any agency or service provider whose decision is being challenged.
- 2971.11 If DHS requests a hearing concerning a claim that a SNAP (formerly Food Stamps) recipient should be disqualified from receiving benefits due to an intentional program violation, it shall do so by completing and filing a hearing request form approved by the Chief Administrative Law Judge.

2972 PUBLIC BENEFITS CASES – REPRESENTATION BY ATTORNEYS

- 2972.1 An attorney or a law student may represent an applicant for, or recipient of, public benefits pursuant to § 2808. An attorney entering an appearance under § 2808 may withdraw an appearance only as allowed under § 2809.
- 2972.2 An attorney who meets the qualifications to represent a party under § 2808 may limit the scope of representation in accordance with this Section. Scope of representation may be limited by date, time period, activity, or subject matter.
- 2972.3 A party shall agree to the scope of representation. A party and an attorney may provide notice of their agreement to limited scope representation and specify the scope of representation by filing and serving a *Notice of Limited Scope Representation*.
- 2972.4 If the scope of representation is limited by date or time period, the attorney's appearance terminates at the end of the date or time period, without the necessity of leave of court. If the scope of representation is limited by activity or subject matter, the attorney's appearance terminates upon the attorney filing a *Notice of Completion*, which shall be filed with OAH and served on each party, including the attorney's client.
- 2972.5 Service on an attorney who has entered a limited appearance is required only for matters within the scope of the representation as stated in the notice. Service shall also be made on the party. Service on the attorney for matters outside the scope of the limited appearance does not extend the scope of the attorney's representation.
- 2972.6 An attorney may extend a limited appearance only by filing and serving a new notice of limited appearance pursuant to this Section or by filing and serving a *Notice of General Appearance* pursuant to § 2808.

2973 PUBLIC BENEFITS CASES – REPRESENTATION BY NON-ATTORNEYS

- 2973.1 An applicant for, or recipient of, public benefits may be represented by a relative, a friend, or any other representative who is not employed by the District of Columbia government.
- 2973.2 Any person who is not a lawyer and who requests a hearing on behalf of another person shall file a statement, signed by that other person, authorizing the non-lawyer to be a representative. A hearing request is subject to dismissal if the required statement is not filed. Before dismissing a case under this subsection, an Administrative Law Judge shall notify the representative of this requirement.
- 2973.3 In accordance with the District of Columbia Public Assistance Act, D.C. Official Code § 4-210.10, if the public benefits applicant or recipient who requested the hearing is not represented by a lawyer, the District or a service provider may not be represented by a lawyer at any hearing involving the following public benefit programs:
- (a) Medicaid, Healthcare Alliance or other healthcare programs administered by the District of Columbia;
 - (b) Temporary Assistance for Needy Families (TANF);
 - (c) SNAP (formerly Food Stamps);
 - (d) Interim Disability Assistance;
 - (e) General Assistance for Children;
 - (f) Shelter and services for homeless persons; and
 - (g) Program on Work Employment and Responsibility (POWER).
- 2973.4 The District or a service provider may be represented by a lawyer at a hearing involving any other public benefit program regardless of whether the person who requested a hearing is represented by a lawyer.
- 2973.5 Sections 2808 and 2810 shall govern the practice of non-attorney representatives.

2974 PUBLIC BENEFITS CASES – ADMINISTRATIVE REVIEWS

- 2974.1 An administrative review is an informal meeting between the person who has requested a hearing at OAH and a representative of the agency or service provider whose action or inaction is being challenged by that person. The purpose of an administrative review is to determine whether the agency's or service provider's position is valid and, if possible, to achieve an informal solution.
- 2974.2 An agency or service provider shall offer each person who requests a hearing at OAH an opportunity for an administrative review, if required by law. At least five (5) calendar days before the hearing date, the agency or service provider shall file and send to all parties and their representatives a status report, which says whether an administrative review was held, and the results of any review.
- 2974.3 In cases involving shelter or other services for homeless persons, as required by the Homeless Services Reform Act, DHS shall conduct the administrative review.
- 2974.4 As required by law, the agency or service provider shall make the case file available to the person who requested the hearing.

2975 PUBLIC BENEFITS CASES – SUBPOENAS

- 2975.1 Any party may file a request in writing for an Administrative Law Judge to issue a subpoena to require a witness to attend a hearing.
- 2975.2 The Administrative Law Judge shall issue a subpoena under this Section if it is likely that the witness will be able to provide testimony that will be helpful in deciding the case, and if requiring the witness to appear will not be unduly burdensome or otherwise contrary to law.
- 2975.3 Any party also may request a subpoena to require a witness to bring documents, photographs, or other materials to present as evidence at the hearing. The Administrative Law Judge shall issue a subpoena if it is likely that the requested items will be helpful in deciding the case, and if requiring those items to be produced will not be unduly burdensome or otherwise contrary to law.
- 2975.4 A form to be used to request a subpoena is available from OAH.
- 2975.5 If an Administrative Law Judge issues a subpoena, the party requesting the subpoena shall deliver it pursuant to §§ 2824.6 through 2824.9 and 2824.11. Unless otherwise ordered by an Administrative Law Judge, delivery shall be made at least two (2) days before the hearing.

2976**PUBLIC BENEFITS CASES – HEARING DATES**

- 2976.1 After a hearing request is filed, an Administrative Law Judge ordinarily shall schedule a hearing. If any applicable law requires that an administrative review be completed before a hearing takes place, a hearing shall not take place until the administrative review has been completed; a statutory deadline for completing the administrative review has passed; or the party requesting a hearing has waived their right to the administrative review.
- 2976.2 An Administrative Law Judge may schedule a status conference or other preliminary hearing to simplify the issues in the case, identify the parties' legal and factual positions, rule on any preliminary legal issues, or for any other purpose.
- 2976.3 Any party may ask an Administrative Law Judge for a different hearing date. Copies of a request form shall be sent with any hearing notice and are available from OAH.
- 2976.4 Only an Administrative Law Judge may change a hearing date.

2977 PUBLIC BENEFITS CASES – HEARINGS AND EVIDENCE

- 2977.1 The Administrative Law Judge shall decide at each hearing the order in which the parties will present their cases.
- 2977.2 If a party who requests a hearing fails to attend the hearing or a status conference without good cause, the Administrative Law Judge may dismiss the case without prejudice. “Good cause” for failing to attend a hearing or status conference includes, but is not limited to: serious illness, an accident, an unexpected child-care issue, severe weather conditions, or other emergency.
- 2977.3 If the agency or service provider whose action or inaction is being challenged fails to attend the hearing, the Administrative Law Judge may rule in favor of the person who requested the hearing.
- 2977.4 In a SNAP (formerly Food Stamps) Intentional Program Violation case, the District shall prove its case even if the other party fails to attend the hearing.
- 2977.5 Parties shall have the following rights at a hearing:
- (a) To testify and to have other witnesses testify for them;
 - (b) To cross-examine witnesses called by another party;
 - (c) To request that any prospective witness be excluded from the courtroom;
 - (d) To examine all exhibits offered into evidence by another party;
 - (e) To object to the admission of any testimony or other evidence;
 - (f) To subpoena witnesses, as provided in § 2975; and
 - (g) To appear with a representative, as provided in §§ 2972 and 2973.
- 2977.6 At a hearing, all parties may present evidence. “Evidence” includes testimony by the parties and any witnesses that a party may present. Evidence also includes documents, photographs, or any other items that a party believes may help the Administrative Law Judge decide the case. The Administrative Law Judge shall decide what evidence becomes part of the record.
- 2977.7 Unless otherwise ordered by the presiding Administrative Law Judge, at least five (5) calendar days before the hearing date, each party shall file with OAH, and send to the other parties, a list of witnesses’ names and addresses, if available; and copies of any documents, photographs, or other items that the party wants the Administrative Law Judge to consider at the hearing. If the party who requested a

hearing needs assistance copying or scanning documents or photographs, the party may request assistance from OAH.

2977.8 If anything is not filed according to the requirements of § 2977.7, and the other party shows that it has been prejudiced, the Administrative Law Judge shall have the discretion to set a new hearing date to allow the other party to prepare.

2977.9 If any party demonstrates that it has been prejudiced by the unexpected appearance of a witness, the Administrative Law Judge shall have the discretion to set a new hearing date to allow the other party to prepare for the witness testimony. If a witness was named on the witness list in the manner provided in § 2977.7, the Administrative Law Judge shall find that there has been no prejudice.

2978

PUBLIC BENEFITS CASES – DEADLINES

2978.1

If a federal or District of Columbia law or regulation imposes any time limitation for issuing or serving the decision in a particular public benefits matter, that law or regulation shall govern.

2979

**PUBLIC BENEFITS CASES – REQUESTING RECONSIDERATION, A
NEW HEARING, OR RELIEF FROM A FINAL ORDER**

2979.1

Motions for reconsideration, a new hearing, or relief from a final order shall be decided in accordance with § 2830.

2980 UNEMPLOYMENT INSURANCE CASES – SCOPE

- 2980.1 Sections 2980 through 2986 shall govern hearings of appeals of decisions of the District of Columbia Department of Employment Services (DOES) concerning unemployment compensation insurance.
- 2980.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2980 through 2986.
- 2980.3 If there is a conflict between any federal law or regulation and anything in these Rules, the federal law or regulation shall control.
- 2980.4 If there is a conflict between any District of Columbia statute and anything in these Rules, the District of Columbia statute shall control.
- 2980.5 If there is a conflict between any other agency’s procedural rules or regulations and these Rules, these Rules shall control.

2981 UNEMPLOYMENT INSURANCE CASES – BEGINNING A CASE

- 2981.1 A party requesting a hearing to appeal a DOES Claims Examiner’s Determination in an unemployment compensation case shall file a copy of the determination that the party is appealing with the hearing request. If the party does not file a copy of the determination, OAH shall issue an order directing the party to file a copy of the determination in order to establish OAH’s jurisdiction. If the copy is not provided, OAH may dismiss the case.
- 2981.2 In unemployment compensation cases, OAH may extend the deadline for filing a hearing request upon a showing of excusable neglect or good cause.
- 2981.3 Section 2805 shall govern all other procedures for requesting a hearing.

2982**UNEMPLOYMENT INSURANCE CASES – REPRESENTATIVES**

2982.1

An authorized agent employed by a firm whose usual business includes providing representation in unemployment compensation cases may represent any party.

2982.2

Sections 2808 and 2810, shall govern the practice of lawyers or other party representatives.

2983**UNEMPLOYMENT INSURANCE CASES – FILING OF PAPERS**

2983.1

- (a) When a request for hearing is mailed to OAH, if the envelope containing the request bears a legible USPS postmark or if there is other proof of the mailing date, the request shall be considered filed on the mailing date. The filing date cannot be established by a private postage meter postmark alone.

- (b) When a request for hearing is delivered to OAH by commercial carrier, the filing date is the date the commercial carrier received the request for delivery to the Clerk's Office, if the cost of delivery is prepaid and delivery is to occur within three (3) calendar days of the commercial carrier's receipt. The date of commercial carrier's receipt shall be established by a document or other record prepared by the commercial carrier in the normal course of business.

2983.2

Section 2811 shall govern all other procedures for filing papers.

2984**UNEMPLOYMENT INSURANCE CASES – SUBPOENAS**

- 2984.1 In unemployment compensation cases, the Clerk shall issue no more than three (3) subpoenas to each party under § 2824.5 to compel:
- (a) The appearance at a hearing of persons who have direct knowledge of Claimant's separation from employment or of the reasons for an adverse action regarding Claimant's benefits; or
 - (b) The production at a hearing of documents, dated no earlier than six (6) months before the date of separation, in the other party's possession that directly relate to Claimant's separation from employment or to the reasons for an adverse action regarding Claimant's benefits.
- 2984.2 Service of a subpoena for a witness to appear at a hearing shall be made by personally delivering the subpoena to the witness. Unless otherwise ordered by an Administrative Law Judge, service shall be made at least two (2) calendar days before the hearing.
- 2984.3 Section 2824 shall govern all other procedures for subpoenas.

2985 UNEMPLOYMENT INSURANCE CASES – HEARINGS AND EVIDENCE

2985.1 At least three (3) business days before a hearing in an unemployment compensation case, a party shall serve on all other parties and file with the Clerk the following:

- (a) A list of the witnesses, other than a party, whom the party intends to call to testify; and
- (b) A copy of each exhibit that the party intends to offer into evidence, other than exhibits to be used solely for impeachment or rebuttal.

2985.2 Section 2823 shall govern all other procedures for hearings.

2986

**UNEMPLOYMENT INSURANCE CASES – REQUESTING
RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL
ORDER**

2986.1

Section 2830 shall govern decisions on motions for reconsideration, a new hearing, or relief from a final order.

2999 **DEFINITIONS**

2999.1 Unless otherwise provided, the definitions in Chapter 28 apply to this chapter.

2999.2 For purposes of this chapter, the term:

CASD means the Conversion and Sale Division of the Department of Housing and Community Development.

Commission means the Rental Housing Commission.

Contested residency case means a case in which an adult student or a minor student's parent or guardian has filed, pursuant to 5-E DCMR § 2009.3, a request for review of a decision by DCPS that a student is not entitled to tuition-free education because the student is not a resident of the District of Columbia.

Conversion and Sale Act means the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3401.01 – 3405.13).

Conversion and Sale Administrator means the Conversion and Sale Administrator of CASD

DCPS means District of Columbia Public Schools.

DDS means District of Columbia Department on Disability Services.

DFHV means District of Columbia Department of For-Hire Vehicles.

DFHV Act means the Department of For-Hire Vehicles Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.01 - .34)

DHCF means District of Columbia Department of Health Care Finance.

DHS means District of Columbia Department of Human Services.

Disciplinary file means any and all tangible evidence, in DCPS's possession, which forms the basis for the school's decision to propose the specific disciplinary action, including, but not limited to: student, staff, and other witness statements; incident reports; photographs; police reports; and security camera footage. Nothing in these rules prohibits DCPS from redacting any information it deems confidential or protected.

District of Columbia or District means the District of Columbia, or any government agency authorized by law to prosecute cases before OAH and whose administrative litigation falls under the jurisdiction of OAH, but does not include OAH.

DOEE means District of Columbia Department of Energy and Environment.

DOES means District of Columbia Department of Employment Services.

Homeless Services Reform Act means the Homeless Services Reform Amendment Act of 2017, effective February 28, 2018 (D.C. Law 22-65; D.C. Official Code §§ 4-751.01 – 756.07).

Limited scope representation means a relationship between an attorney and a person seeking legal services in which they have agreed that the scope of the legal services shall be limited by date, time period, activity, or subject matter.

ORM means District of Columbia Office of Risk Management.

OSSE means District of Columbia Office of the State Superintendent of Education.

RAD means the Rental Accommodations Division of the Department of Housing and Community Development.

Rent Administrator means the Rent Administrator of the RAD.

Rental Housing Act means the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §§ 42-3501.01 – 3509.10).

Rental housing cases means cases initiated pursuant to the Rental Housing Act and the Rental Housing Conversion and Sale Act.

School day means a day that school is open, whether or not students are attending, but does not include any day that OAH is closed.

Service Provider means a person or entity that furnishes assistance to members of the public through a contract with or funding from the District.

Student discipline case means a case in which DCPS seeks to expel a student or to suspend a student for at least six (6) days.