

District of Columbia
Office of Administrative Hearings
Resource Center

What to Expect at a Hearing



OAH's Mission

The District of Columbia Office of Administrative Hearings (OAH) is an administrative court with more than 30 Administrative Law Judges that decide contested cases from more than 40 District agencies, boards and commissions. The independent agency is a neutral, impartial tribunal that holds hearings and decides appeals from various agency decisions. OAH's docket includes cases involving unemployment compensation, Medicaid and other public benefits, public space, rent control, professional and business licenses, and building, health and fire code violations. OAH enhances the quality of life in our city by giving residents a fair, efficient and effective system to manage and resolve administrative litigation arising under District of Columbia law.

Disclaimer

This booklet is meant to help you learn more about the hearings process in the Office of Administrative Hearings (OAH). This guide does not give legal advice. You can only get legal advice from a lawyer.

The OAH Resource Center tries to keep informational materials, such as this guide, up to date, but laws and procedures change often. OAH does not guarantee the accuracy of this information. If you have questions about anything in this booklet, please call OAH at (202) 442-9094 or email OAH at oah.help@dc.gov.

If you want to see all of the rules at OAH, you should look at 1 DCMR Chapters 28 and 29, available online at <https://oah.dc.gov/page/rules-and-laws>.

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Introduction

What is the Office of Administrative Hearings (OAH)?

OAH is an independent agency within the District of Columbia government which hears and decides appeals from many different DC agencies. If you disagree with the decision (such as a denial of benefits, a revocation of a license, or a Notice of Infraction) of a DC agency, you can file an appeal at OAH. OAH also accepts and processes payments when you do not dispute a decision made against you.

Who are the Administrative Law Judges?

At OAH, an independent Administrative Law Judge will hear the evidence and make a decision about your case. The judges do not work for the agency that issued the first decision. The judges are appointed by an independent commission. OAH judges are experienced lawyers with many years of practice and come from many different legal backgrounds. Biographies of each judge are available at <https://oah.dc.gov/page/alj-biographies>.

What is a hearing?

A hearing at OAH is similar to a trial. A judge is in charge of the hearing and gives each side a chance to present evidence and witness testimony. While the hearings may not be as formal as a trial, there are OAH Rules which the judge applies. As of April 1, 2020, judges also temporarily apply COVID-19 Emergency Rules, which modify several OAH Rules to reflect OAH's remote operating status. The OAH Rules and the Emergency Rules are available at <https://oah.dc.gov/page/rules-and-laws>.

Can I get an interpreter?

If you speak a language other than English and need an interpreter, OAH will provide one for free. Please tell OAH as soon as possible. If you are not sure if you need an interpreter, please ask for one anyway. You cannot have a friend, family member, or another party in the case interpret for you. To ask for an interpreter,

please call OAH at (202) 442-9094 or email OAH at oah.filing@dc.gov.

Requesting a Hearing

How do I ask for OAH to hear my case?

You must ask for a hearing in writing. Your written request should include:

- (a) a short description of your dispute;
- (b) what you want the judge to do;
- (c) dates and other important facts;
- (d) a copy of the decision you're appealing; and
- (e) your full name and contact information.

For some types of cases, OAH provides template forms that you can fill out and email, mail, or fax to OAH to request a hearing. The forms are available at <https://oah.dc.gov/page/filings-and-forms>.

During the COVID-19 Public Health Emergency, OAH is not open for walk-in visits or in-person filing. OAH currently accepts documents for filing only by email, mail, and fax:

- Email: oah.filing@dc.gov
- Mail: 441 Fourth Street, NW, Suite 450 North
Washington, DC 20001
- Fax: (202) 442-4789

If you have any questions about requesting a hearing, call OAH at (202) 442-9094.

What happens next?

After you ask for a hearing, OAH will mail a **Scheduling Order** to the address you give them. If you give OAH an email address, OAH will also email the Scheduling Order. **NOTE:** please check your junk or spam email box for emails from OAH.

A **Scheduling Order** is a written order from the Court that tells you the date and time of your hearing and what the hearing will cover. **NOTE:** In some cases, the agency whose decision you're appealing may have to do an Administrative Review before you can have a hearing at OAH. An Administrative Review is a meeting between you and the opposing party (or agency) to work out the issue before the hearing.

Since OAH is operating remotely during the COVID-19 Public Health Emergency, your Scheduling Order will have instructions on how to attend your remote hearing by phone.

How does a remote hearing work?

OAH uses a computer program called WebEx to hold and record remote hearings. All you will need to attend your remote hearing is a phone. Your Scheduling Order will have the phone number, an access code, and instructions on how to call into your hearing.

Do I have to attend my remote hearing?

Yes. You **must** attend the remote hearing. If you don't, you could lose your case.

If you need to postpone a hearing for good cause (such as if you have a medical condition that prevents you from appearing, you are scheduled to appear in another court, you have a child-care issue, your job will be in jeopardy if you miss work, etc.), you can ask for a new hearing date by filing a written **Request for a Different Hearing Date** (also known as a **Motion for a Continuance**). You must ask for a different hearing date **as soon as** you know about the conflict. OAH won't normally postpone a hearing for non-emergency personal reasons or business appointments. Judges also usually won't accept a last-minute Request for a Different Hearing Date unless you have an unforeseen, serious conflict outside of your control, such as a medical emergency.

Do **not** assume your request is granted just because you filed it. You must come to the hearing as scheduled unless you receive a written order from the judge changing the date.

How do I file a written request (also known as a motion) with OAH?

Before you file a Request for a Different Hearing Date or any other written request, you must try to contact the other side and ask for consent. You must say in your request that you tried to make contact and whether the other party consented. You must also always send all other parties in your case a copy of your request.

You must file the request with OAH by sending it to OAH by email, mail, or fax (see page 5 of this booklet for OAH's contact information).

For some types of requests (including a Request for a Different Hearing Date), OAH provides template forms you can fill out and send to OAH. The forms are available at <https://oah.dc.gov/page/filings-and-forms>.

What happens at a hearing?

There are different kinds of hearings. Sometimes, a judge will schedule a **preliminary hearing** so the parties can tell the judge what the issues are, decide whether to go to mediation, or tell the judge when they are available for a longer hearing. Other times, the judge will set an **evidentiary hearing** right away. Be sure to read the order you receive carefully to understand what kind of hearing you are scheduled for. If you are not sure, contact OAH to ask.

An **evidentiary hearing** gives all parties a chance to tell their side of the story to the judge. To tell your story, you may testify and have witnesses testify for you. You may also ask the judge to look at documents, photographs, or other physical evidence. You will also hear the other side's evidence and have an opportunity to question the other side's witnesses. The judge will make sure that you understand the hearing process and have the time you need to present your case.

Before the Hearing

Do I need a lawyer?

You're allowed to have a lawyer at your hearing, but you do not have to have one. In some types of cases, if you don't have a lawyer, you may bring a representative who isn't a lawyer. If you are not sure, contact OAH.

If you want a lawyer or representative, you must tell that person about the hearing date as soon as possible. If you cannot afford a lawyer, but still want one, you may contact the OAH Resource Center by phone at (202) 442-9094 or by email at oah.help@dc.gov. OAH cannot guarantee that you will find a lawyer to represent you, but OAH has a list of organizations that may be able to represent you for free or reduced rates; and, in some cases, the Resource Center may help connect you with a lawyer.

You may represent yourself at a hearing (also known as pro se representation) and do not need to have a lawyer or representative.

Practice telling your side of the story.

The purpose of your testimony is to give the judge the facts, not to directly argue with the other side. Think of your testimony like a speech that tells the facts of your case. When it's your turn, the judge will allow you to tell your side of the case.

If you are representing yourself in a case, you may also prepare an opening statement and a closing argument to summarize your case and your arguments about why you should win.

Can I bring witnesses?

If other people have evidence about the issues, you may ask them to go to the remote hearing and testify. You must give your witnesses the call-in information to join the remote hearing. If the witnesses aren't willing to attend the hearing, you may file a request for a **subpoena**. A subpoena is an order to make the witness come and testify. You can also ask for a subpoena to make the witness bring documents. A judge will decide whether to order the

subpoena. If the judge signs a subpoena, you or a friend must give the subpoena to the witness.

In rental housing and unemployment insurance cases, you may be able to receive up to three subpoenas from the Clerk's Office without asking a judge to approve them.

Can I send in documents or other evidence?

If you have written documents, photographs, videos, or other items that will help you prove your case, you may ask the judge to look at them during the hearing and make them part of the formal record of the case. You may also ask the judge to watch or listen to a recording of the event.

Photographs you want to use as evidence must fairly and accurately represent the situation it reflects. **NOTE:** If you have digital photos or videos on a camera or phone that you want to use, you must download or print the photos and download the videos so that you can send copies to the judge and to the other parties. If you only have the photos or videos in your camera or phone at the time of the hearing, the photos or videos cannot be added to the record, so they cannot be used by the judge when making a decision in your case.

Give your evidence and witness list to the other side.

You must follow the directions in your Scheduling Order. Send copies of the evidence to the other side and to OAH **before** the hearing. Both sides must share their evidence and their witness lists before the hearing. This makes sure that no one will be surprised by the evidence at the hearing. The judge may not allow you to add any evidence which you didn't show the other side before the hearing.

The Hearing

Plan to join the remote hearing early.

The judges start the hearings on time. If you are late, you will miss some or all of the hearing. If you miss your hearing, you may automatically lose your case.

Join the remote hearing a few minutes early to make sure the number and access code work. If you have technical difficulties that keep you from joining a hearing, call (202) 442-9094 right away. If you miss the hearing because you can't reach an OAH staff person by phone to fix the technical issue, call or email OAH as soon as possible to explain the issue and to ask for a new hearing date.

Why does the judge record the WebEx hearing?

A digital recording of the hearing is the **official record** of what occurred at the hearing. When the OAH hearing begins, the judge will introduce the case and may discuss how the case started at OAH. The judge will ask the parties to state their names for the record. This is so any written transcript prepared later correctly says who is speaking.

The **official record** of a case includes the written orders from the judge, all evidence given by the parties, and the recording of the hearing. If OAH's decision in a case is appealed, the official record will be sent to the judge or decision maker who will hear and decide the case on appeal.

You can also get a copy of your recorded hearing for a \$10 processing fee. To get a copy, send a **Request for Audio Recording of Hearing**, along with the \$10 fee, to OAH. A template form for the request is available at <https://oah.dc.gov/page/filings-and-forms>.

How is the hearing run?

The party who has to prove his or her side (called the burden of proof) usually goes first. That party will present his or her entire case first—all the witnesses and document evidence. There are

some exceptions to this. For instance, sometimes an agency has more information about why it denied benefits to someone, even though the Claimant (person asking for benefits) has the burden to show they are eligible for the benefits. In these cases, the agency will usually present its case first.

The judge will swear in any witnesses, and then the witnesses will tell what they know. If you do not have a lawyer, you can simply tell your story. If you have a lawyer or representative, that person will ask you questions. If you bring witnesses, you can ask them questions. The judge may also have questions for you or your witnesses.

After each witness goes, the other party can cross examine that witness. Cross examination lets you ask questions that challenge or further explain the witness's testimony. Cross examination is **not** a chance to argue with the other side or give your own testimony.

When you are testifying, you may ask the judge to look at and "admit" your documents into the formal record of the case. The judge will need to make sure the documents are real and related to the case. The judge will also need to give the other side an opportunity to object to admitting the document.

The rules that govern hearings and evidence are in the OAH Rules, available at <https://oah.dc.gov/page/rules-and-laws>. In a hearing at OAH, rules of evidence aren't as strict as they might be in other courts. The rules of evidence are designed to make sure that the hearing process is fair to all the parties.

What if I have a question during the hearing?

If you don't understand something, ask the judge to explain it. The judges know that some parties aren't lawyers, and they are used to answering questions. But always remember that the judge cannot give you advice on your case or help you present your evidence.

After the Hearing

How do I find out the result of the hearing?

The judge probably won't make a decision at the hearing itself. After the hearing, the judge will write a Final Order with the judge's decision. OAH will mail or email the Final Order to you and the other parties involved in the case. **NOTE:** please check your junk or spam email box.

What can I do if I disagree with the Final Order?

If you disagree with the result in the Final Order, you usually can do one of two things. First, you may file a **Motion for Reconsideration** with OAH, asking the judge to change the Final Order or schedule another hearing. Second, you may file an appeal with the District of Columbia Court of Appeals (or some other appeals body, depending on the case). Read your final order carefully because each Final Order includes a description of where and how to file an appeal. There are strict time deadlines to file most appeals. Another OAH guide entitled "Understanding a Final Order" (available at <https://oah.dc.gov/service/oah-resource-center>) can give you more information.

If you have further questions about what to expect at a hearing, or if you need more explanation of anything in this booklet, please call OAH at (202) 442-9094 or email OAH at oah.help@dc.gov.



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