



DEPARTMENT OF CANNABIS REGULATION ADMINISTRATIVE HEARING PROCEDURES

I. Hearing Officers

a. Hearing officer panel

DCR shall maintain a roster of hearing officers to hear administrative appeals filed pursuant to LAMC Sec. 104.14. DCR shall assign hearing officers to hear appeals on a rotating basis such that once a hearing officer has heard an appeal, he or she shall not hear another appeal until all other hearing officers on the roster have been assigned to hear one appeal. However, if multiple hearings are scheduled for the same day, DCR may assign one hearing officer to hear all of that day's appeals. Further, if a hearing officer is unavailable or unable to conduct a scheduled hearing, DCR may assign the hearing to the next hearing officer in the rotation.

b. Disqualification of hearing officer

A hearing officer shall be subject to disqualification on the basis of bias, prejudice, conflict of interest or other reason provided by law. If an Appellant believes the hearing officer should be disqualified, it shall submit in writing a detailed explanation of the grounds for disqualification and provide all supporting evidence. The Los Angeles City Attorney's Office shall review the Appellant's submission and determine whether grounds for disqualification exist.

Upon selection for a hearing, a hearing officer shall notify DCR and the Appellant if he or she has a personal or financial interest in the matter, or has a relationship with any of the involved parties which may cause him or her to have a conflict of interest, bias or prejudice with regard to the appeal heard. If the hearing officer notifies DCR and the Appellant of a potential conflict of interest, DCR shall select a new hearing officer unless both parties consent, in writing, to proceed before the original hearing officer.

DCR may remove a hearing officer from the panel if he or she fails to attend a hearing, timely issue a written decision, conduct a hearing in a fair and orderly manner, or adhere to DCR's hearing procedures. DCR may also remove a hearing officer if he or she exceeds his or her authority or addresses issues beyond the scope of those presented on appeal.

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c. Hearing officer's assistant

A DCR staff member may assist the hearing officer with administrative duties, including scheduling and noticing hearings, collecting pre-hearing submissions, tracking evidence at hearings, sending out hearing decisions to parties, and maintaining case files. The hearing assistant shall not be involved in the hearing officer's decision-making process regarding the issues presented at any hearing. The hearing officer shall refrain from discussing the substantive issues of any case with the hearing assistant.

d. Legal counsel for hearing officers

The City Attorney will provide legal counsel to the hearing officer regarding the conduct of hearings, but will not advise the hearing officer regarding the substantive findings and determinations to be made. To ensure fairness and due process, the attorney advising the hearing officer on a particular appeal will not advise DCR regarding that appeal.

II. Hearing Process

a. Pre-Hearing disclosures

The Appellant shall make all pre-hearing disclosures required under LAMC Sec. 104.14(d) by email to DCRAppeals@lacity.org. DCR shall serve its pre-hearing disclosures on the Appellant by email to the email address of the Appellant's agent for service of process. The hearing officer's assistant shall provide the hearing officer with copies of the parties' respective disclosures.

b. Ex parte communications

The hearing officer shall not communicate with DCR (excluding the hearing officer's assistant) or the Appellant regarding a pending appeal outside of a properly noticed hearing. Similarly, the hearing officer shall not issue any orders – substantive or procedural – by email, telephone or any other means prior to a hearing. If a hearing officer receives an ex parte communication, he or she shall immediately notify the hearing officer's assistant and the hearing officer's legal counsel.

c. Hearing location

All hearings shall take place at a location within the City of Los Angeles determined by DCR.

d. Hearing rules and procedures

1. Each party at the hearing may choose its hearing representatives and call witnesses in support of its case. The hearing officer may exclude a witness from the hearing until it is time for him or her to testify.

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2. The hearing shall be recorded by a digital recording device provided by DCR. All conversations between the hearing officer and the parties related to the hearing shall be recorded. Any party to the hearing may, at its own expense, cause the hearing to be recorded and transcribed by a certified court reporter.

3. After turning on the recording system, the hearing officer shall read the date and the title of the appeal and ask for appearances from all parties. The hearing officer will inquire if all parties are ready to proceed and then explain the hearing process and confirm that all parties understand the process.

4. The hearing officer shall first identify and admit the following evidence into the record:

- i. DCR administrative decision being appealed
- ii. The appeal form filed by the Appellant
- iii. The hearing notice
- iv. The parties' pre-hearing disclosures
- v. Any other evidence the hearing officer deems appropriate

5. The hearing officer shall allow the parties to present evidence, subject to the following rules:

- i. Since DCR has the burden of proof by the preponderance of the evidence, it shall have the first opportunity to present argument and evidence concerning the appeal. The Appellant shall then have an opportunity to present argument and evidence concerning the case.
- ii. Each party may present its case in the manner of its choosing, including, but not limited to, argument from a hearing representative, witness testimony, or submission of documentary evidence. Generally, any evidence that the hearing officer determines to be relevant shall be admitted if it is the sort of evidence persons would commonly rely on in the conduct of their business affairs. If the evidence meets this standard, the hearing officer may not exclude it solely because it is introduced in a manner that would not meet the evidentiary standards in a formal judicial proceeding; notwithstanding, the hearing officer is free to exclude evidence that is irrelevant, duplicative, consumes undue time, lacks sufficient credibility or authenticity, or is outside the scope of the hearing.
- iii. The hearing officer shall administer the following an oath to all witnesses prior to testifying who testify:

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You do solemnly state, under penalty of perjury, that the testimony you may give in the cause now pending in this hearing shall be the truth, the whole truth, and nothing but the truth.

iv. Each party shall be allowed a reasonable opportunity to conduct a direct examination of each witness it calls, followed by an opportunity for the other party to cross-examine the witness. The hearing officer, at his or her discretion, may permit a re-direct (or re-cross) examination of each witness.

v. The hearing officer may ask questions of either party or a witness, as necessary, to clarify testimony and evidence.

vii. Each party is entitled to a fair and reasonable amount of time to present its case, taking into account the quantity and complexity of the claims at issue and the nature of the evidence the parties intend to present.

vi. The hearing officer should confirm, on the record, when each party has no further evidence to present, after which each party shall be allowed a reasonable opportunity to summarize its position through a closing argument or statement. The hearing officer may ask questions of either party, as necessary, to clarify their arguments.

vii. The hearing officer will then close the hearing, unless it is continued to permit the parties to submit additional information requested by the hearing officer. Prior to turning off the recording system, the hearing officer should clearly state that the hearing has been completed and the record has been closed.

6. The hearing officer may issue evidentiary and procedural decisions during the course of the hearing as necessary to maintain an efficient process and ensure the hearing is conducted in adherence to the City's laws and the requirements of due process. The hearing officer may continue the hearing if there is not enough time to complete the hearing on the noticed date.

III. Hearing Officer's Written Findings of Fact

Within 30 business days after the conclusion of the hearing, the hearing officer shall issue written findings of fact and decide whether to uphold, reject or modify the challenged decision being appealed. The hearing officer's assistant shall serve the findings on the Appellant by mail to the Appellant's agent for service of process.