



SETTLEMENT OF ADMINISTRATIVE CASES

Enforcement Division
Policy Number: LE 6.03.00

Effective Date: 2/1/08

POLICY

The Texas Alcoholic Beverage Commission (TABC) will, whenever possible, negotiate settlements of administrative cases.

RULES

Texas Alcoholic Beverage Commission Rules:

§ 37.60. Standard Penalty Chart.

§ 37.61. Suspensions.

PROCEDURES

a. Negotiating a Settlement.

1. A supervisor or his or her designee will attempt to negotiate a settlement with a permit or license holder or an authorized representative.
2. Settlement procedures must be completed and submitted to Enforcement Headquarters within 45 days of the completion of the case report.
3. Determining the Offer for Settlement.
 - Prior to meeting with the permit or license holder or authorized representative, the supervisor or their designee will consult the penalty chart and determine, considering all circumstances, an appropriate penalty to offer for settlement.
 - If the supervisor or his or her designee chooses a penalty that is a deviation from the penalty chart, he or she will justify the deviation in writing and submit the justification up the chain of command to the chief of enforcement.
4. The supervisor or his or her designee will generate an *Agreement and Waiver of Hearing* using the agency computer system.
5. The supervisor or his or her designee will inform the permit or license holder or authorized representative that he or she has the option:
 - to waive the right to a hearing and settle the case; or
 - to request a hearing before an administrative law judge.

b. Settlement of Case Outside Original District.

1. When an administrative case is sent to another office for settlement, the supervisor of the receiving office is responsible for all negotiation, processing, documentation, and any other action necessary or required by these policies and procedures.

2. The original office will send to the receiving office the *Administrative Notice* form and the, *Agreement and Waiver of Hearing*. If the party has already requested a hearing, the office will also send the *Request for Hearing*.
 3. The lieutenant in the receiving office will notify the lieutenant in the original office of the final disposition of the case.
- c. **Rejection of Settlement Offer.** If a permit or license holder or an authorized representative rejects a final settlement offer, the supervisor will make the necessary notations in the agency computer system and begin procedures for requesting an administrative hearing. See *Administrative Hearing*, § 6.04.00 of this manual.
- d. **Acceptance of Settlement Offer.**
1. If the permit or license holder or authorized representative accepts the settlement offer, the supervisor or his or her designee will require the individual to sign the *Agreement and Waiver of Hearing*. The supervisor or his or her designee will also sign this form.
 2. The supervisor or his or her designee will make the necessary notations in the agency computer system and send the following documents to Enforcement Headquarters, or make them available via the agency computer system:
 - the original copy of the *Administrative Notice*;
 - the *Agreement and Waiver of Hearing*;
 - the case report;
 - the written justification for a penalty chart deviation, if any; and
 - any other supporting documents.
- e. **Withdrawal of Acceptance of Settlement Offer.**
1. A permit or license holder or authorized representative may request withdrawal of acceptance of a settlement offer within 30 days of the date on which the *Agreement and Waiver of Hearing* was signed.
 2. The permit or license holder or authorized representative should submit the request in writing.
 3. When the district office receives a withdrawal request, the lieutenant will prepare a *Request for Hearing*, and will make the necessary changes in the agency's computer system. Refer to *Administrative Hearing*, § 6.04.00 of this manual, for policies and procedures regarding initiating an administrative hearing.

FORMS

Administrative Notice, Form 4-46
Agreement and Waiver of Hearing
Request for Hearing
