



ADMINISTRATIVE HEARING

Enforcement Division
Policy Number: LE 6.04.00

Effective Date: 2/1/08

POLICY

The Texas Alcoholic Beverage Commission (TABC) will ensure that permit and license holders have the opportunity to appear at an administrative hearing for the purpose of adjudicating an administrative case that the TABC has filed against them.

PROCEDURES

- a. **Documenting a Request for Hearing.** If a permit or license holder or authorized representative rejects the offer for settlement and requests a hearing to resolve his or her administrative case, the lieutenant or his or her designee will:
 1. generate the *Agreement and Waiver of Hearing* form and a *Request for Hearing* form, if he or she has not already done so; and
 2. make sure that the settlement offered to the individual is consistent with the penalty recommendation on the *Request for Hearing*.
- b. **Reviewing the Case.**
 1. The lieutenant or his or her designee will submit the following documents up the chain of command to the captain, or make them available via the agency computer system:
 - the original copy of the *Administrative Notice*;
 - the *Agreement and Waiver of Hearing*;
 - the *Request for Hearing*;
 - the case report;
 - the written justification for a penalty chart deviation, if any; and
 - any other supporting documents.
 2. The captain will review administrative cases in which the permit or license holder or authorized representative requests a hearing. The captain will ensure that cases are complete and accurate and support a viable charge or charges. The captain, in his or her discretion, will approve the administrative case, return it to the CPO for correction, or void it.
 3. The captain will submit approved cases to the supervising assistant chief.
 4. The assistant chief will review administrative cases in which the permit or license holder or authorized representative requests a hearing. The assistant chief will ensure that cases are complete, accurate and support each element of the charged violation or violations. The assistant chief, in his or her discretion, will approve the

administrative case, return it to the CPO for correction, or void it.

5. The assistant chief will submit approved administrative cases to the Legal Services Division for prosecution.

c. Settling a Case After Initiating a Request for Hearing.

1. After requesting a hearing, a supervisor or his or her designee may still settle an administrative case.
2. If a case has been submitted to the Legal Services Division, the supervisor or his or her designee will contact the attorney assigned to the case prior to entering into a settlement agreement.

d. Maintaining Documents in the District Office.

1. The district office will maintain a pending administrative case file even after submitting the case to Enforcement Headquarters. This file will include a copy of a *Notice of Hearing*, should the Legal Services Division issue one.
2. When the Commission issues a final order, Enforcement Headquarters will send a copy of the order to the district office.
3. The district office will attach the final order to the *Notice of Hearing* and the *Agreement and Waiver of Hearing* and place it in the district permit or license folder.

FORMS

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