

REPRESENTING YOURSELF BEFORE THE ADMINISTRATIVE HEARING COMMISSION

The Administrative Hearing Commission (AHC) has prepared this document to answer some of the questions you might have regarding your case. It is important to remember that the information presented is general and is intended to cover the most common situations. The explanations in this pamphlet do not cover all of the possible situations that may arise in a case and do not cover all of the rules and laws that might apply. The AHC's website, <https://ahc.mo.gov>, also contains information regarding AHC procedures. The AHC's rules of procedure for contested cases can be found [here](#). You may also wish to review some of the statutes regarding procedure before the AHC in [Chapter 536](#) and [Chapter 621](#) RSMo.

Please be aware that AHC staff are here to assist you and are happy to answer any general questions that you may have about how the process works. However, AHC staff are legally prohibited from providing you legal advice. Any legal advice can only be provided by your attorney.

1. AM I REQUIRED TO HIRE AN ATTORNEY TO REPRESENT ME BEFORE THE AHC?

There is no requirement for you to hire an attorney if you are representing only yourself or representing a sole proprietorship business that you personally own by yourself. These sole proprietorships typically operate using a trade name and use the terminology "doing business as" or "dba." However, you cannot represent other people or any other type of business unless you are an attorney. For example, all legal entities, such as corporations (including single-shareholder corporations), partnerships, and limited liability companies (LLC), must be represented by an attorney. Only an attorney licensed to practice in Missouri may represent another person or business entity.

Accountants, CPAs, and tax consultants who are not licensed attorneys may not represent other individuals or business entities before the AHC.

Please be aware that the state agency involved in your case will be represented by an attorney.

Even if you are not required to hire an attorney, you may prefer to retain an attorney depending upon the nature of your case, the amount of time you can personally devote to preparation and how much is involved in the final outcome. Any individual or business entity may hire an attorney at its own expense. However, the AHC cannot appoint an attorney for you.

2. WHAT HAPPENS NOW THAT I HAVE A CASE WITH THE AHC?

Each case is initiated by the filing of a "complaint" (also known as an "appeal") with the AHC. Each case has a petitioner and a respondent. The petitioner is the party who filed the complaint, and the respondent is the party against whom the complaint is filed.

Our staff opens an official file for each case and gives that file a name and number. If you contact the AHC, it will be very helpful to refer to the case number. You may view your file on the AHC's public portal found [here](#). If you have questions regarding the public portal or you cannot locate your case or its filings, please contact the AHC by email at ahc@oa.mo.gov or by calling 573-751-2422.

If you filed the complaint, we have served a copy of the complaint on the state agency involved in your dispute and have informed the agency that it has 30 days to file a response. If you are the respondent, you must follow the instructions in our notice of complaint and file an answer or responsive pleading within 30 days.

Our staff schedules hearings and sends each party a notice of the date and time of the hearing.

Any request made by either you or the agency for the AHC to do something in the case is called a "motion." The AHC makes written rulings on motions. In many cases the AHC will send a letter giving the opposing party a date by which we must receive a response to the motion. Since a motion filed by the agency may result in your losing your case if the AHC grants the agency's request, it is very important for you to read the motion as soon as you receive it and decide how you want to respond.

3. IS A HEARING REQUIRED IN MY CASE?

The AHC does not conduct a hearing in every case. A case may be settled, decided on stipulated facts, or decided on a written motion. You may contact the attorney for the state agency to discuss possible settlement of your case. Even if no settlement can be reached, it is possible for you to enter into a stipulation (or agreement) of the undisputed facts that you and the state agency agree to be true.

If the agency files a written motion to decide your case without a hearing, the AHC will send you a letter telling you how much time you have to send in a written response to the motion. Since the granting of such a motion could mean that you lose your case, be sure to read the motion right away. The AHC's rules allow you to file a motion to have your case decided without a hearing. Consult the AHC's rules for the procedure for these motions.

4. WHAT IF A HEARING IS SCHEDULED AT A TIME WHEN I CANNOT COME?

You can file a written request with the AHC to have the hearing date changed. Be sure to explain why you cannot have the hearing on the scheduled date.

5. WHAT IS REQUIRED WHEN I WRITE TO THE AHC?

Any time you write to the AHC, include your case name and number. Also, you are required to send the state agency's attorney a copy of anything you send to us. The attorney is required to do the same for you. You and the agency's attorney may send each other documents by email. The AHC will not accept any correspondence or documents to be filed that are sent by email.

6. HOW WILL THE AHC NOTIFY ME OF WHAT IS HAPPENING IN THE CASE?

The AHC will notify you of the hearing date, its rulings and other matters by email if the AHC has your email address or by mail otherwise. It is important to provide the AHC and the agency attorney your current mailing address, email address, and telephone number and to promptly notify the AHC and the agency attorney of any changes.

7. WHAT HAPPENS IF THE AGENCY SENDS ME DISCOVERY?

The state agency may send you discovery in the form of interrogatories, requests for production of documents, requests for admissions, or notice(s) of deposition. These documents are designed to facilitate the discovery of the facts in the case so that the parties can identify which facts may be in dispute in the particular case. These forms of discovery are allowed by the AHC rules found [here](#). If you fail to answer or object to a "request for admissions" within 30 days of the time it is sent to you, your failure is taken as an admission of the facts set forth in the request, and you will not be allowed to introduce contrary evidence at the hearing. Just as the state agency is entitled to send you discovery requests, you are similarly entitled to send discovery requests (interrogatories, requests for production of documents, requests for admissions, or notice(s) of deposition) to the state agency.

9. WHAT TAKES PLACE AT THE HEARING?

Hearings may be held in person at the Jefferson City location or virtually via WebEx (similar to Zoom). The hearing notice will have information regarding how and where a party may appear via WebEx for hearing. At the hearing, you are expected to appear and present your case based upon evidence (testimony and exhibits) admitted at the hearing and also respond to the evidence presented by the state agency.

The hearing resembles a trial in a courtroom except that there is no jury. However, the commissioner will make every effort to assist you with the procedure you are to follow. You may also ask questions during the hearing regarding the procedure. All witnesses will be sworn and

their testimony taken down by the AHC court reporter. The evidence received at the hearing will be the basis for the decision.

Burden of proof. In most cases when you are the petitioner, you have the responsibility to convince the commissioner that you should win. This means you have the “burden of proof.” An exception to this rule is when you are the petitioner in a case in which an agency is trying to suspend or revoke a license, such as a liquor license. In those cases, the agency must convince the commissioner that the charged violations have occurred. In cases where the state agency has filed the complaint against you seeking cause to discipline your professional license, the agency has the burden of proof.

The AHC rules allow the commissioner the discretion to have the state agency present its case first.

Exhibits. If there are items, such as letters, documents, or records that you want to have admitted into evidence, you will be required to have them authenticated if they are from another agency or person.

You must submit to the AHC any hearing exhibits you wish to offer into evidence no later than one business day prior to the hearing. You and the state agency’s attorney must exchange copies of your proposed exhibits prior to the commencement of the hearing. If you have more than 75 pages of exhibits to introduce, please contact the AHC within seven days prior to the hearing for additional filing instructions. Each party is responsible to ensure that each witness has copies of all exhibits before the start of the hearing about which the party intends to inquire.

Can I be a witness? Yes. If you testify, you should tell your story in a simple, direct way so that the commissioner can understand just what the points of controversy are. You may introduce exhibits during your testimony. The state agency attorney will then ask you questions (cross-examination). Before testifying, you, like all other witnesses, must take an oath to tell the truth. If you do not want to take an oath, you must affirm that you will be truthful.

Can I use affidavits at the hearing? An affidavit is a written statement which has been sworn to and signed before a notary public. If you offer an affidavit into evidence, there is a possibility that the state agency attorney will object. You may wish to contact the state agency attorney before the hearing and see if the attorney has any objection to the use of the affidavit. You may file with the AHC before a hearing an affidavit you intend to introduce as evidence.

Can I object to the agency’s evidence? During the presentation of evidence, either side may object to the other’s evidence on the basis that it does not meet the rules required for it to be considered as evidence. Normally, neither side can object just because it disagrees with the truth of what is being said. The commissioner will rule on these matters.

Transcripts. After the hearing, the court reporter will need some time to prepare the transcript. The AHC will send you a letter when the transcript is ready and will tell you how much it will cost if you want to purchase a copy of the transcript.

Written arguments after the hearing. At the end of the hearing, the commissioner may ask each side how much time it wants to submit written arguments (called “briefs”). The commissioner may issue a briefing schedule on their own. A brief may include proposed findings of fact, conclusions of law, and legal argument to support your position or to oppose the state agency’s position. While you have a right to submit a brief to the commissioner, you are not required to submit one. Except in extraordinary circumstances, once the hearing is adjourned you are not allowed to submit any additional evidence – only written arguments based on the evidence (testimony in the transcript or exhibits admitted) presented at the hearing.

How do I get the final decision? The commissioner will issue a decision in writing that will set forth the facts found to be true, the law applicable to those facts, and the basis for the commissioner’s decision regarding the case. A copy of the decision is mailed or emailed to each party.

11. DO I HAVE THE RIGHT TO APPEAL IF THE AHC RULES AGAINST ME?

Yes. Normally appeals must be filed with the correct court within 30 days of the date of the AHC decision. Which court you must appeal to and how the appeal must be taken depends on the kind of case you have. You should consult an attorney or read the statutes yourself to find out as quickly as possible after the AHC decision has been issued. Once the 30-day period has passed, you have lost the right to appeal.

QUESTIONS?

If you have any questions or need additional information, please email us at ahc@oa.mo.gov or call us at 573-751-2422.