

Office of Administrative Hearings Information Sheet for DOR
Vocational Rehabilitation Appellants

The Office of Administrative Hearings

DOR matters are handled by the General Jurisdiction Division of the Office of Administrative Hearings (OAH). OAH has four regional offices located in Los Angeles, Sacramento, San Diego, and Oakland.

An Administrative Law Judge (ALJ) from one of these four offices will hear your case. The hearings usually will take place at your local District Office. A map showing which District Offices are assigned to which local OAH office is attached. It can also be found at:

<http://www.dgs.ca.gov/oah/generalJurisdiction/RehabHearings.aspx>

Mediation

Mediation is a voluntary and confidential process. You do not have to request mediation in order to have a fair hearing. The mediator assigned to your mediation will be different than the ALJ assigned to your fair hearing. Mediation must take place within 25 days of your request and DOR's acceptance of that request.

More information about mediation can be found at 9 Cal. Code Regs., tit 9, § 7353.6.

Before the Hearing

Pre-Hearing Conferences

The ALJ assigned to the case may schedule a conference call with the parties to discuss matters in advance of the hearing. Topics of discussion may include:

1. The date, time, length, and place of the hearing
2. Discovery: this is the exchange of evidence between the parties.
3. Exhibits
4. Witnesses and support persons
5. Stipulations or matters both sides agree on
6. Confidentiality of names, medical, personal, or psychological matters

Continuances (Postponements)

If you cannot attend your hearing or mediation on the date set and have good cause for why it needs to be changed, you need to inform DOR and the local OAH office handling your case as soon as possible. Your request must be filed at least five (5) days before the hearing. The ALJ will assess the reason why you want the

continuance, whether the other party opposes your request, and make a decision to grant or deny your request. (9 Cal. Code Regs., tit 9, § 7357.)

If your request is denied, you are expected to appear on the original hearing date. If your request is granted, the hearing will be re-set on a date that is good for both parties.

A sample continuance (postponement) request can be found on the OAH website at www.dgs.ca.gov/oah/generalJurisdiction/RehabHearings.aspx

At the Hearing

You, the Appellant and/or your authorized representative and the DOR representatives shall have an opportunity to present evidence, information, and witnesses to the ALJ, be represented by counsel or other appropriate advocate, and examine all witnesses and other relevant sources of information and evidence. All persons testifying shall be placed under oath or affirmation. (9 Cal. Code Regs., tit 9, § 7355(c) & (d) .)

The ALJ will:

1. Call the case
2. Go over the hearing procedure
3. Mark exhibits
4. Confirm issue(s)
5. Have Appellant present case – The DOR and ALJ may ask questions of Appellant and his/her witnesses
6. Have DOR present case – The Appellant and ALJ may ask questions of DOR witnesses.
7. The ALJ will weigh the credibility of the parties testifying.
8. Ask for closing arguments/statements
9. Close the record (unless additional evidence is being submitted)

Tips for Appellant at Hearing

1. Arrive at the hearing 30 minutes early if you can, but do not be late.
2. Identify the issues you want resolved
3. Bring your outline of issues and questions
4. Bring paper or device for note taking
5. Bring witnesses who will support your position
6. Bring documents that support your position
7. Bring the original and three (3) copies of all documents (One copy for the ALJ, the DOR representative, and any witness)
8. Present an honest recollection of events

9. Review the relevant laws and regulations before the hearing.
10. Be courteous and respectful to everyone at hearing.

You may waive the right to appear at the hearing and instead have the matter decided on the written record. If you wish to do so, file a request in writing, with OAH at least seven (7) days prior to the scheduled hearing.

Degree of Proof

1. For appeals requested by Appellants, the Appellant has the burden of proof. The standard is preponderance of the evidence. (Evid. Code §§ 500, 115.)
2. For eligibility determinations where the DOR believes Appellant is incapable of benefitting from vocational rehabilitation services, clear and convincing evidence is required of the DOR. (9 Cal. Code Regs., tit 9, § 7004.6, 7014.)

Default Hearing

If you fail to appear within 30 minutes of the scheduled start time of your hearing, the ALJ will end or cancel the hearing. The ALJ will send you a letter and an Order explaining to you that the case is closed. If, however, you have “good cause” for not attending you must send a written explanation to the ALJ within 14 days of the hearing. (9 Cal. Code Regs., tit 9, § 7356(c), 7355(e).) If the ALJ determines you in fact had “good cause” to fail to appear, the ALJ may re-schedule your hearing. If you do not send a written explanation within 14 days or the ALJ determines you did not have good cause, the case will be dismissed.

Good cause includes illness, an accident, death, or other unexpected emergency. (9 Cal. Code Regs., tit 9, § 735(a)(8).)

After Hearing

After the record is closed to new evidence, within 30 days, the ALJ will issue a written decision setting forth the issues, factual findings, reason for the decision, applicable laws/regulations, and the final decision. (9 Cal. Code Regs., tit 9, § 7358(a).)

If you disagree with the ALJ’s decision, you may appeal to the Superior Court of California. You can request assistance with your appeal through the Client Assistance Program (CAP). Instructions on how to contact CAP will be enclosed with the written decision. (9 Cal. Code Regs., tit 9, § 7358(b), Cal. Welf. & Inst. Code § 19709(a).)

Accommodations

If accommodations are necessary, such as an interpreter or assistive listening devices, please contact the OAH regional office that is handling your hearing. Documents in Braille or documents in large print can be made available upon request.

QUESTIONS?

If you still have procedural questions, please visit the OAH web site: www.dgs.ca.gov/oah/generalJurisdiction/RehabHearings.aspx You may also contact the local OAH office assigned to your case but understand that OAH cannot provide you legal advice or discuss the particulars of your case with you:

OAH SACRAMENTO
2349 GATEWAY OAKS DR., SUITE 200
SACRAMENTO, CA 95833
Phone 916-263-0550 FAX 916-376-6318
Email: sacddsdor@dgs.ca.gov

OAH OAKLAND
1515 CLAY STREET, SUITE 206
OAKLAND, CA 94612
Phone 510-622-2722 FAX 916-376-6323
Email: oakfilings@dgs.ca.gov

OAH LOS ANGELES
320 WEST FOURTH STREET, SUITE 630
LOS ANGELES, CA 90013
Phone 213-576-7200 FAX 916-376-6324
Email: laxfilings@dgs.ca.gov

OAH SAN DIEGO
1350 FRONT STREET, SUITE 3005
SAN DIEGO, CA 92101
Phone 619-525-4475 FAX 916-376-6325
Email: sanfilings@dgs.ca.gov

You can also contact the DOR Mediation and Fair Hearing office. On their website www.dor.ca.gov/Appeals you can find forms, helpful information, and contact information for the DOR and CAP advocate.

DOR Mediation and Fair Hearing Office

c/o Department of Rehabilitation
Legal Affairs
P.O. Box 944222
Sacramento, CA 94244-2220
Voice: (916) 558-5860
TTY: (916) 558-5892
Fax: (916) 558-5861
Email: appealsinfo@dor.ca.gov