



ADMINISTRATIVE REGULATION (AR 89-1)

Subject: CONDUCT OF HEARINGS INVOLVING FOR-HIRE VEHICLE REGULATED BUSINESSES

Effective Date: 11/13/2025

SUMMARY OF CONTENTS

1. Purpose
2. Scope
3. Definitions
4. Hearing Officers
5. Procedure
 - 5.1 Setting the Matter for Hearing
 - 5.2 Delivery of Notice by Mail
 - 5.3 Right to Representation by Counsel
 - 5.4 Failure to Appear at Hearing
 - 5.5 Discovery
 - 5.6 Conduct of Hearings
 - 5.7 Rules of Evidence Applicable to Hearings
 - 5.8 Findings and Determinations by the Hearing Officer
 - 5.9 Final Decision
 - 5.10 Judicial Review

1. PURPOSE

This Administrative Regulation is in accordance with MTS Ordinance No. 11, Section 1.17. The purpose of this regulation is to provide a procedure for appeals of the decision of the Chief Executive Officer with respect to denials, suspensions, or revocations of for-hire vehicle permits and establishment of regulatory fees. When a hearing is required by law, the Appellant will be notified of the hearing and have an opportunity to appear before a Hearing Officer to present the case.

2. SCOPE

This regulation applies to those individuals desiring to appeal decisions of the Chief Executive Officer with regard to denials, suspensions, or revocations of for-hire vehicle permits and establishment of regulatory fees; and to those individuals directly involved in the appeal process.

3. DEFINITIONS

In this regulation, unless the context or subject matter otherwise requires:

- a. "Appellant" means an applicant or permit holder who files a written appeal as a result of a decision by the Chief Executive Officer to deny an application for a for-hire vehicle permit, or to revoke or suspend a for-hire vehicle permit, or to establish or modify regulatory fee amounts.
- b. "Party" means Appellant and Chief Executive Officer.
- c. "Chief Executive Officer (CEO)" means the Chief Executive Officer of the San Diego Metropolitan Transit System (MTS) or their designee.
- d. "Hearing Officer" means an Administrative Law Judge assigned by the California Department of General Services, Office of Administrative Hearings.

4. HEARING OFFICERS

MTS Ordinance No. 11, Section 1.17, provides as follows:

- a. The CEO shall use California Department of General Services, Office of Administrative Hearings Administrative Law Judges as Hearing Officers. The assignment of Administrative Law Judges as Hearing Officers shall be determined by the California Department of General Services, Office of Administrative Hearings.
- b. The Hearing Officer shall be a member of the California State Bar and shall not be an MTS employee.

The Hearing Officer shall not have been connected in any manner in the decision to take the proposed action which is the subject of the appeal.

5. PROCEDURE

5.1 Setting the Matter for Hearing

Responsibility

Action

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| Appellant: | a. Files a written notice of appeal, no later than ten (10) working days from the date of delivery of a written notice from the CEO to deny, revoke, or suspend a for-hire vehicle permit or establish or modify a regulatory fee to the CEO, pursuant to MTS Ordinance No. 11. |
| CEO: | b. Reviews the appeal and, based on additional information provided therein:

(1) May rescind the denial, revocation, or suspension of a for-hire vehicle permit, or may revise the findings, regulatory fee, or penalty; or

(2) Requests a Hearing Officer from the California Department of General Services, Office of Administrative Hearings.

In either instance, action by the CEO consistent with section (b)(1) or (b)(2) above shall be taken no later than thirty (30) working days after receipt of written notice of appeal by appellant. |
| CEO: | d. Requests the California Department of General Services, Office of Administrative Hearings to set the hearing to be no less than thirty (30) calendar days, but as soon as is reasonably possible, from the date of request by the CEO and provides notice to the Appellant and holds the hearing at such a place and time as may be most convenient to the Hearing Officer, and to the parties. |
| Hearing Officer: | e. May grant a continuance of the hearing for a good cause, recognizing that the filing of an appeal stays any revocation or suspension of a permit. |

5.2 Delivery of Notice by Mail or Electronic Delivery

Except as provided in Section 5.5 of this regulation, whenever the rules authorize delivery of any notice or paper by mail, the notice or paper must be deposited in the United States mail, postage prepaid, in a sealed envelope addressed to the Appellant, at Appellant's last known address. The delivery is complete at the time of the deposit. MTS may, with written permission from appellant, provide delivery of notice via electronic mail.

5.3 Right to Representation by Counsel

Any party shall be entitled to be represented by legal counsel at any hearing before the Hearing Officer. If Appellant is to be represented by an attorney, written notice of that representative, including the name, address, and phone number, must be sent at least ten

(10) calendar days before the hearing. The legal counsel representing either party shall be a member of the California State Bar and be licensed in good standing. After an attorney appears at the hearing on behalf of the party, or after the filing of written notice that the attorney is appearing on behalf of the applicant or party, all notices shall thereafter be served upon such counsel.

5.4 Failure to Appear at Hearing

The Appellant who has appealed for a hearing and who fails to make an appearance at the hearing, either in person, or through a duly authorized representative after having received notice of the time and place of the hearing, shall be deemed to have waived the right to appeal and shall forfeit all rights to a hearing.

5.5 Discovery

- a. Copies of all reports and materials upon which the CEO relied shall be mailed by MTS to, or electronically served upon, appellant or its representative five (5) calendar days prior to the scheduled hearing date.
- b. Copies of all such reports and materials upon which the Appellant intends to rely as part of the defense to the CEO's decision, shall be mailed to the CEO five (5) calendar days prior to the scheduled hearing. Such copies shall be mailed to the following address unless otherwise requested:

San Diego Metropolitan Transit System
Attn: General Counsel
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

5.6 Conduct of Hearings

Hearings held by the Hearing Officer will be conducted according to the following format:

- a. The Hearing Officer will read the title of the case and ask for appearances from all parties. This information shall be recorded in the official file of the hearing. The Hearing Officer will inquire if all parties are ready to proceed and will record the names of all witnesses and parties who are present.
- b. If all parties are ready to proceed, the Hearing Officer will mark for identification only all papers in the official file of the hearing, which should include:
 - (1) The Notice of Appeal of the Appellant.
 - (2) The notice to the Appellant of the date set for the hearing.
 - (3) All reports and materials upon which the CEO relied in taking administrative action.
 - (4) All reports and materials upon which the Appellant intends to rely as part of the defense to the CEO's proposed administrative action.

- c. All testimony before the Hearing Officer shall be under oath or affirmation administered by the Hearing Officer.
- d. The person representing the CEO shall present any evidence. In the case of appeal from denial, revocation, or suspension of a for-hire vehicle permit, the person representing the CEO shall have the burden of proof to establish by a preponderance of the evidence that Appellant violated applicable laws and/or regulations.
- e. The person representing the Appellant shall present their evidence. In the case of appeal from the establishment of regulatory fees, the person representing the Appellant shall have the burden of proof, which shall be preponderance of the evidence.
- f. Each party will be allowed to cross-examine witnesses in the order determined by the Hearing Officer.
- g. Each party may present rebuttal evidence.
- h. The Hearing Officer may, on their own motion, continue any hearing to another time and place, order additional evidence to be presented, or allow other evidence to be gathered and presented, as in their determination a proper presentation of the case requires. Upon motion of either party, the Hearing Officer may grant a continuance for good cause shown.
- i. The hearing will then be closed and the matter submitted to the Hearing Officer for decision.
 - (1) If further documentary evidence is to be filed, the Hearing Officer may allow time for filing and serving such documentary evidence, and order that the matter be deemed submitted after such period unless any party objects to such documentary evidence within ten (10) days after it is filed. Copies of such documentary evidence shall be served on all parties who appeared at the hearing. Following the hearing, the Hearing Officer shall transmit in writing to the parties, their findings of fact, conclusions, and decision within ten (10) working days after the matter was submitted for decision.

5.7 Rules of Evidence Applicable to Hearings

- a. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege shall be effective to the same extent that they now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.
- b. Each party shall have these rights: to call and examine witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called the

witness to testify; and to rebut the evidence against the party. If Appellant does not testify on their own behalf, the Appellant may be called and examined as if under cross-examination.

- c. The Hearing Officer may consider hearsay evidence as part of their determination except that no finding may be based solely on such hearsay evidence unless the hearsay evidence is supportive or supplementary to other legally competent evidence. Hearsay may be used if it would be admissible in a civil action. In reaching their decision, the Hearing Officer may consider arrests and police-issued citations as evidence of unlawful activity if the frequency and nature of the arrests and/or citations support this finding.
- d. The hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who does not proficiently speak the English language shall provide an interpreter, approved by the Hearing Officer conducting the proceeding as proficient in the English language and the language in which the witness will testify, to serve as interpreter during the hearing. The cost of the interpreter shall be paid by the party providing the interpreter.

5.8 Findings and Determinations by the Hearing Officer

- a. The Hearing Officer shall determine all factual issues raised by the appeal.
- b. When a hearing is held by the Hearing Officer, the Hearing Officer shall make findings of fact as to whether the decision of the CEO is supported by evidence presented or existing in the official file.
- c. All permittee's for-hire vehicle permits may be suspended or revoked when it is shown that a pattern of unlawful activity is occurring and permittee does not or is unable to control the unlawful activities.
- d. At the conclusion of the hearing, the Hearing Officer may at their discretion:
 - (1) Uphold the CEO's denial, suspension, or revocation, in which case the appellant shall immediately surrender the permit to the CEO;
 - (2) Order a lesser penalty;
 - (3) Overturn the CEO's denial, suspension, or revocation; and
 - (4) Find the regulatory fee(s) exceeds personnel and administrative costs, and direct the CEO to modify or implement fee(s).

5.9 Final Decision

The Hearing Officer shall issue a final written decision within ten (10) calendar days of the hearing. The time for judicial review of the final written decision of the Hearing Officer shall be governed by California Code of Civil Procedure section 1094.6.

5.10 Judicial Review

- a. Judicial review of any decision of the Hearing Officer may be had pursuant to section 1094.5 of the California Code of Civil Procedure only if the petition for writ of mandate authorized by said section is filed within the time limits specified herein.
- b. Any petition for writ of mandate authorized by section 1094.5 of the California Code of Civil Procedure must be filed no later than the 90th day following the date on which the final written decision of the Hearing Officer is issued.
- c. The complete record of the proceedings at which the decision was reached shall be delivered to the Appellant within 190 days after the filing of a written request therefore. MTS may recover its actual costs for transcribing or otherwise preparing the record. Such record shall include the transcript of the proceedings, all pleadings, all notices and orders, any decision by the CEO or their designee, the final written decision, all admitted exhibits in the possession of MTS, and any other papers in the matter.
- d. If the Appellant files a request for the record as specified in Section 5.9 of this Administrative Regulation within ten (10) days after the date the decision becomes final, the time within which a petition pursuant to section 1094.5 of the California Code of Civil Procedure may be filed shall be extended to no later than the 30th day following the date on which the record is either personally delivered or mailed to the Appellant or the attorney of record.
- e. In making a final written decision, the Hearing Officer shall provide notice to the Appellant that the time within which judicial review must be sought is governed by this Administrative Regulation and section 1094.6 of the California Code of Civil Procedure.

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Sharon Cooney
Chief Executive Officer

Approved as to form:

Samantha Leslie
Deputy General Counsel