

City of Albuquerque
Independent Office of Administrative Hearings
Rules of Procedure for STOP Violation Hearings

1. Purpose

- A. The purpose of these rules is to provide uniform procedures for the conduct of Administrative Hearings by Independent Hearing Officers under the authority of the Independent Office of Administrative Hearings (“IOAH”) and to conform IOAH procedures to the Rules of Civil Procedure used in New Mexico District Courts.
- B. These Rules are made pursuant to specific authority granted by City of Albuquerque’s Safe Traffic Operations Program, ROA 1994, §§7-11-1 et seq. (“STOP”) and shall not be interpreted to amend or supercede STOP or applicable State law. In the event of any conflict, STOP and State law prevail over these rules.
- C. These rules shall apply only to the conduct of administrative hearings set for STOP violations.
- D. A current version of these rules shall be maintained at the Offices of the Clerk of the City of Albuquerque.

2. Notice of Hearings

- A. An individual requesting a hearing pursuant to STOP Ordinance shall make a written request for hearing to the IOAH. The Request for Hearing shall be made within the time period and in the form consistent with the STOP Ordinance.
- B. The IOAH shall schedule a hearing before an Independent Hearing Officer within the time limits stated within the STOP Ordinance.
- C. The IOAH shall send a written Notice of the scheduled hearing to the individual requesting the hearing and to the Albuquerque Police Department. The written Notice shall contain the date and time, and location of the scheduled hearing.

3. Filing of Pleadings

- A. Pleadings shall be considered filed when stamped with the date/time received on the pleading by the IOAH.
- B. Copies of any pleading filed with the IOAH shall be served by the filing party to all parties to the matter.

4. Consolidation and Joinder

The hearing officer may consolidate or join cases for any reason if it would expedite final resolution of the cases and would not prejudice the interests of any of the parties.

5. Pre-Hearing Conference (Rule 1-016, New Mexico Rules of Civil Procedure for the District Courts)

- A. The hearing officer shall schedule a prehearing conference within thirty (30) days from the date of the filing of a request for hearing filed by the Respondent. The prehearing conference shall address any matter deemed appropriate by the hearing officer.
- B. The hearing officer may conduct a prehearing conference in order to obtain information necessary for issuance of a prehearing order. The hearing officer may conduct the conference by telephone.
- C. At a minimum, the prehearing order shall:
 - (1) identify any contested facts and issues;
 - (2) secure stipulation of those matters not in dispute;
 - (3) review any requests for discovery and set a deadline for any discovery allowed;
 - (4) set a deadline for disclosure of witnesses to be called and exhibits to be introduced;
 - (5) discuss any prehearing motions and determine the manner in which they will be heard or acted upon; and
 - (6) schedule the hearing on merits.

6. Discovery

- A. Discovery shall not be conducted before the pre-trial conference. Discovery shall not be considered as automatically granted by the IOAH for any matter under its authority and jurisdiction. Requests for inspection of documents must be approved in advance by IOAH either at the pre-trial conference or thereafter for good cause shown. Upon written request by a party, the hearing officer may order either party to produce for inspection and copying any relevant records, papers, documents, or other tangible evidence in the possession of or available to that party.
- B. No additional discovery shall be allowed, except by express, written order of the hearing officer.

7. Motions

- A. Any dispositive motions, discovery motions, motions for protective orders or other motions contemplated by the Rules of Civil Procedure for the District Courts of New Mexico, that can be determined prior to the hearing on the merits shall be raised by filing the written motion at least fifteen (15) days prior to the scheduled hearing on the merits.
- B. Any responses to a motion shall be filed within ten (10) calendar days after the filing of the motion.

- C. The hearing officer shall rule on motions as soon as practicable. An oral hearing on the motion or additional briefing shall be at the sole discretion of the hearing officer.

8. Witnesses

- A. Witnesses shall be identified in accordance with the prehearing order or other order of the hearing officer. If no prehearing order has been entered, all witnesses must be identified in writing at least five (5) calendar days prior to the hearing. This rule does not pertain to the police officer who will testify at the hearing. Witnesses not designated in accordance herewith shall not be permitted to testify except at the sole discretion of the hearing officer for good cause shown.
- B. A party designating a witness who is not a City employee is responsible for the appearance of that witness.

9. Hearings

- A. All reasonable efforts shall be made to conclude the hearing on merits within a reasonable time.
- B. A party may appear at the hearing through a representative or attorney, provided such representative has given written notice of appearance at least three (3) calendar days prior the scheduled hearing.
- C. All hearings shall be public, except the Hearing Officer shall retain control and decorum of the hearing room and may order person(s) removed if this control and decorum are potentially or actually threatened.
- D. The Hearing Officer is responsible for the control and decorum of the hearing and the hearing room. The Hearing Officer may take any action the hearing officer deems necessary to effectuate a full, fair and impartial and expeditious hearing. Upon written request by the hearing officer and for good cause shown, the IOAH may prohibit any person from appearing before the hearing officer for a period of time set by the IOAH.
- E. The City shall present its case first and shall have the burden of proof by preponderance of the evidence.
- F. Oral evidence shall be taken only under oath or appropriate affirmation.
- G. Each party shall have the right to:
 - (1) call and examine witnesses;
 - (2) cross-examine witnesses;
 - (3) introduce exhibits;
 - (4) impeach any witness;
 - (5) introduce evidence relevant to the issues; and
 - (6) present any rebuttal evidence.
- H. It is the policy of the IOAH that hearings shall be conducted in an orderly and informal manner following the New Mexico Rules of Civil Procedure for the District Courts and following the New Mexico Rules of Evidence.

- I. The burden of proof for violations and defenses of the STOP Ordinance shall be the preponderance of the evidence.
- J. The hearing officer may admit and give probative effect to any evidence, including hearsay and affidavits, as the hearing officer deems appropriate. The hearing officer shall exclude incompetent, immaterial, irrelevant, or unduly cumulative testimony. Documentary evidence may be received in the form of copies or excerpts unless the source of the information or other circumstances indicate lack of trustworthiness.
- K. The hearing officer shall take judicial notice of matters and shall apply the rules of privilege in the same manner as the courts of this state.
- L. The hearing officer shall only admit evidence relevant to the matter being heard.
- M. The hearing shall be open to the public. However, upon motion by either party, and for good cause shown, the hearing officer may order that the hearing be closed to the public.
- N. The hearing officer shall not participate in any adjudicatory proceeding, if, for any reason, the hearing officer cannot provide a fair and impartial hearing to either party.
- O. No person shall discuss the merits of any pending adjudicatory proceeding with the designate hearing officer unless both parties or their representatives are present.

10. Decision

The hearing officer shall submit and serve the Hearing Officer's Findings of Fact and Conclusions of Law upon the parties at the conclusion of the hearing on the merits.

11. Appeal

There is no automatic right of appeal from the decision of the Hearing Officer. All appeals must be docketed in the Bernalillo County District Court, pursuant to Rule 1-075, New Mexico Rules of Civil Procedure for the District Courts.

12. Record of Hearing

The official record of any hearing before the hearing officer shall be taken by computer recorded transcript or audio tape at the discretion of the IOAH by a certified court reporter or certified monitor. In the event that a party elects to appeal a decision of the hearing officer, the cost and responsibility for submission of the record on appeal to the appropriate court shall be borne by the party bring the appeal.