

**Guide to
Hearings Before the**

**SOUTH CAROLINA
OFFICE OF MOTOR VEHICLE HEARINGS**

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This brochure is issued for informational purposes only and nothing in it shall bind the assigned Hearing Officer or the South Carolina Office of Motor Vehicle Hearings as to the procedures described herein.

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What is the Office of Motor Vehicle Hearings?

The Office of Motor Vehicle Hearings (OMVH) was created in 2005 and is an office within the South Carolina Administrative Law Court. There are five Hearing Officers, one of whom will be assigned to hear your case.

The OMVH provides a neutral forum for fair, prompt and objective hearings for persons affected by an action or proposed action of the South Carolina Department of Motor Vehicles, ensuring due process and respecting the dignity of all.

How do I contact the OMVH?

The Administrative Coordinator or the assigned Hearing Officer's assistant may be contacted at the addresses or numbers on the back cover of this brochure.

Where is the OMVH located?

The offices of the OMVH are in Suite 325, third Floor, Edgar A. Brown Building, State House Complex, 1205 Pendleton Street (located at the corner of Pendleton and Sumter Streets), Columbia. Street parking at metered spaces is available.

How do I use this brochure?

This brochure is provided by the OMVH to help you prepare for your hearing. The information applies to the most common kinds of cases that come before the OMVH. The procedures outlined are designed to handle most types of cases. However, some procedures are optional with each Hearing Officer. This brochure does not cover all situations that might arise, but it should help you to better understand the process and prepare your

case. You should also refer to the Rules of Procedure of the OMVH which you may find online at our website.

REMEMBER: It is important that you read carefully the documents sent to you by the OMVH. Those documents tell you the issues involved, what deadlines you must meet, and what rights you have.

How does my case get to the OMVH?

A request for a contested case hearing must be filed directly with the OMVH with the required filing fee. The filing fee is required to accept your case and it is **NON-REFUNDABLE**. Shortly after the case has been assigned to a Hearing Officer, a hearing notice will be sent to you and all other parties which will state the date, time and place of the hearing. If you have an attorney, it will be sent to your attorney. Notices will be sent by e-mail if possible.

Who can represent me?

You may be represented by an attorney or you may appear on your own behalf (called “pro se”). It is up to you to decide whether you will retain an attorney. **The OMVH cannot advise you on this decision and cannot recommend an attorney. If you choose to have someone represent you at the hearing, only attorneys may appear on your behalf** and argue your case before the Hearing Officer.

Can I talk to the Hearing Officer?

No party is allowed to speak to the Hearing Officer about the case without all the other parties being involved. Each Hearing Officer has a staff person that you can speak with to clarify procedural and scheduling matters and who can

provide information from the case file. However, **no Hearing Officer or OMVH employee can give you any legal advice and you should never attempt to discuss the facts of your case with any Hearing Officer or employee of the OMVH.** Your opportunity to explain the facts and your position is at the hearing.

How do I file documents with the OMVH?

In most instances, only written responses, motions and requests will be considered by the Hearing Officer. Documents can be filed with the OMVH by: (1) U. S. mail; or (2) hand-delivery. When you are required to file a document by a certain date and you are sending it by mail, you should include a certificate of mailing stating the date you mailed it to the OMVH and the other parties.

If there is no certificate of mailing, then the date the envelope is postmarked by the U.S. Postal Service will be the date it is considered filed. Documents delivered by facsimile are not considered filed. Delivery by any means other than U.S. Mail delivery will be considered filed on the date of receipt.

You must always include the docket number on all documents filed with the OMVH. **Anything you file with the OMVH must be copied to all the other parties involved in your case.** Notify the OMVH immediately if your mailing address or telephone number changes. If you retain an attorney, all correspondence in your case from the OMVH will go to your attorney's address.

Can I settle my case or compromise it with the South Carolina Department of Motor Vehicles without going to a hearing?

It is entirely appropriate for parties to discuss settlement or compromise and resolve issues without having to

attend a hearing. If you settle your case prior to the hearing, you must immediately notify the Hearing Officer or his staff assistant by telephone and in writing. Normally the Hearing Officer will dismiss a case after the parties notify his/her staff assistant that it has been settled.

What if I decide to withdraw my request for a hearing?

You may withdraw your request for a hearing at any time by immediately by notifying the Hearing Officer or his/her staff assistant by telephone and in writing. Court costs may be assessed against you if you do not timely inform the Hearing Officer or his/her staff assistant of the withdrawal request.

Is my hearing like a real trial?

Your hearing will be very similar to a trial in court, with witnesses, exhibits and rules of evidence. A Hearing Officer will preside. The Hearing Officer is not employed by the South Carolina Department of Motor Vehicles and does not represent the Department at the hearing.

How do I prepare for my case?

Generally, the party requesting the action or relief has the burden of proof. However, if you have a license and the South Carolina Department of Motor Vehicles wants to take some disciplinary action against you, the Department has the burden of proof and must establish that you violated the laws or regulations charged. However, you should be prepared to offer evidence at the hearing of your good character and conduct, any mitigation and rehabilitation, as well as any evidence refuting the charges, as appropriate.

Depending on the case, you may want to bring witnesses who know about the issues involved. You should also bring documents (such as contracts, business records, or checks), photographs, or other items that may help prove your case. With documents, try to bring the original and two copies. Items introduced into the record at the hearing become the property of the OMVH and will be retained by the Hearing Officer.

You must contact the South Carolina Department of Motor Vehicles to see or copy the agency file and any other relevant evidence. You may have to pay for any copies requested. The OMVH can provide information only from its case file. Discovery must be completed before the hearing.

If you are a party, you have the right to subpoena from individuals, businesses, and the South Carolina Department of Motor Vehicles relevant records or other things to be produced at the hearing. Witnesses whose testimony is relevant to your case can come voluntarily to the hearing, or you may serve a subpoena on a person which would compel them to be present at the hearing. Contact the OMVH Administrative Coordinator prior to the hearing to request subpoena forms and instructions. **You must arrange to have someone else serve the subpoenas and will have to pay any applicable fee for serving it.**

REMEMBER: This hearing is your chance to tell the Hearing Officer your story. It is important that you bring any documents or witnesses to the hearing which will support your case.

When is my hearing and who is involved?

OMVH will send a hearing notice to you which will

contain the date, time, place and nature of the hearing. The notice will also contain other important information that you need to read. The notice will be sent to you at least 30 days before the hearing date unless the time for notice is waived by all parties or is otherwise provided by statute. OMVH schedules and conducts its hearings at numerous locations in South Carolina.

Is the hearing location accessible to people with disabilities?

The OMVH hearing rooms are accessible to persons with physical disabilities. If you or other persons planning to attend a hearing have special need requiring reasonable accommodation, please contact the Administrative Coordinator as soon as possible so arrangements can be made.

Can the date of the hearing be changed?

Hearings are postponed only when extraordinary circumstances exist. You must give the Hearing Officer or his/her assistant a good reason to change a hearing date. If you cannot attend on the date and time scheduled, contact the Hearing Officer or his/her assistant as soon as you know of the problem. To request a change of date, you must state the reason(s) for the change. The Hearing Officer may require that you file a written motion with an affidavit attached. Make your request as far in advance of the hearing as possible. Notify the other parties of your request at the same time you notify the hearing officer. If the hearing date is changed, a new hearing notice may be required to be sent to all parties.

What if I don't attend the hearing?

Unless the Hearing Officer informs you that the hearing is postponed, **it will take place when scheduled, even if you are not present.** If a hearing is held and you do not attend, any relief requested will probably be denied. If an emergency arises and you will be late for the hearing, call the Hearing Officer's assistant to explain the problem. If you cannot reach the Hearing Officer's assistant, contact the Administrative Coordinator.

What will happen at the hearing?

When the hearing begins, the Hearing Officer will usually allow each party to make an opening statement. This tells the Hearing Officer what each party intends to prove. Each party can then offer relevant evidence to prove its case. Evidence can be sworn testimony at the hearing or certain kinds of documents, such as business records. You must prove the accuracy of documents you submit.

Each party will be allowed to present evidence through witnesses and otherwise (documents that are admissible). Witnesses are subject to cross--examination by the other party.

REMEMBER: Your chance to present evidence is at the hearing. Before the hearing closes, you must submit all the evidence you want the Hearing Officer to consider. Only in rare cases will the Hearing Officer allow new evidence to be submitted after the hearing is over.

After all testimony is heard, each party has the opportunity to make a closing argument, with the petitioner usually going first. The party that goes first also has the right to make a short reply argument. Closing arguments address only those facts brought out in testimony or in documents allowed to come into the record as evidence. Opening statements and closing

arguments are not evidence.

Can I obtain an audio recording of the hearing?

Yes, but you must pay the cost of preparing the audio recording. You may contact the OMVH Administrative Coordinator to request it and must send the required fee in the form of a money order, cashier's check or certified check before it will be mailed to you.

When will the Hearing Officer issue a decision and can I appeal it?

The Hearing Officer who hears your case will issue a written final decision as soon as possible. Please be aware that there is no law or rule mandating when an order must be completed. A party may appeal the final decision to the South Carolina Administrative Law Court within 30 days of receipt of the decision. The appeal will be heard by an Administrative Law Judge. Contact the Clerk's office at (803) 734-0550 for more information or visit the Rules of Procedure governing appeals on the ALC website (www.scalc.net).

Hearing Officers:

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