

# Orange County Taxi Administration Program Appeals Request Form



Date:

First Name:	Last Name:	
Current Mailing Address:		
City:	State:	Zip Code:
Phone Number:	Social Security Number:	

Specific OCTAP action you are appealing:


Grounds for Appeal:


Relief Sought (action you want OCTAP to take):


Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

<p>OCTAP Use Only</p> <p>Fee Paid: _____</p>	<p>Received:</p>
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# OCTAP Appeals Procedures

## 1. Scope

These procedures apply to those individuals desiring hearings appealing decisions of the OCTAP Administrator with respect to fines, denials, suspensions, or revocations of taxicab business, vehicle and/or driver permits; and to those individuals directly involved in the appeal process.

## 2. Definitions

- a. "Appellant" means an applicant or permit holder who files a timely written appeal of a decision by the OCTAP Administrator.
- b. "Party" means Appellant or OCTAP Administrator, as the context requires.
- c. "OCTAP Administrator" means the Administrator of the Orange County Taxi Administration Program or his designee.
- d. "Hearing Officer" means a member of a Hearing Panel.
- e. "Hearing Panel" means a panel of three persons appointed by the OCTAP Administrator to hear an appeal.

## 3. Hearing Officers

- a. The OCTAP Administrator shall maintain a list of qualified Hearing Officers consisting of members of the OCTAP Safety Committee, who shall not be employees of OCTA. The Safety Committee members shall regularly rotate assignments as hearing panelists.
- b. A panel of three (3) Hearing Officers shall hear an appeal. None of the Hearing Officers shall have been involved in any way in the decision to take the proposed action which is the subject of the appeal.
- c. The Hearing Officer shall expeditiously schedule the appeal hearing.

**4. Procedure**

**4.1 Setting the Matter for Hearing**

<u>Responsibility</u>	<u>Action</u>
Appellant	a. Files a written notice of appeal, within ten (10) days of the date of delivery of the notice from the OCTAP Administrator of proposed adverse action.
OCTAP Administrator	b. After review of written appeal, either revises action imposed or appoints Hearing Panel from the list of Hearing Officers.  c. Sets the appeal hearing for a date not fewer than ten (10) calendar days subsequent. Immediately sends written notice of the time, date, and place of the hearing to Appellant at least five (5) working days in advance of the hearing date. Said notice shall be delivered by United States mail, certified, return receipt.
Hearing Panel	d. Holds the hearing or may continue the hearing for good cause.

**4.2 Delivery of Notice by Mail**

Whenever delivery of any notice or paper is required, said notice or paper may be delivered by personal delivery or by United States mail, postage prepaid, addressed as follows:

To Appellant:  
At Appellant's last known address of record.

To OCTAP:  
Orange County Transportation Authority  
OCTAP Administrator  
550 South Main Street  
P.O. Box 14184  
Orange, CA 92863-1584

Delivery is complete at the time of deposit.

### **4.3 Right to Representation by Counsel and Failure to Appear at Hearing**

- a. Any party may be represented by legal counsel or other representative at any hearing before the Hearing Panel. If Appellant is to be represented by an attorney, written notice of the attorney's name, address, and phone number shall be sent to OCTAP Administrator at least five (5) calendar days before the hearing. If an attorney appears at the hearing on behalf of the party, or if written notice that an attorney will appear on behalf of the Appellant, all notices shall thereafter be served upon such counsel.
- b. If Appellant fails to appear at the hearing either in person or through a duly authorized representative after having received notice of the date, time, and place of the hearing, shall be deemed to have waived the right to appeal and the proposed adverse action shall become final.

### **4.4 Discovery**

- a. Upon Appellant's request, copies of all reports and materials relied on by the OCTAP Administrator shall be mailed to Appellant or his representative at least five (5) calendar days prior to the scheduled hearing date or may be obtained in person.
- b. Copies of all reports and materials upon which the Appellant intends to rely in his appeal shall be mailed or delivered to the OCTAP Administrator at least five (5) calendar days prior to the scheduled hearing.

### **4.5 Conduct of Appeal Hearings**

Appeal hearings shall be conducted as follows:

- a. A presiding Hearing Officer shall be chosen by the Hearing Panel.
- b. The presiding Hearing Officer shall read the title of the case and ask for appearances from all parties. The presiding Hearing Officer shall inquire if all parties are ready to proceed and shall record the names of all witnesses and parties who are present. This information shall be recorded in the official file of the hearing.

- c. If all parties are ready to proceed, the presiding Hearing Officer shall mark for identification only, and not as evidence, all papers in the official file of the hearing, which should include:
  - (1) The written Notice of Appeal of the Appellant.
  - (2) The written notice to the Appellant of the date set for the hearing.
  - (3) All reports and materials upon which the OCTAP Administrator relied in taking the proposed action.
  - (4) All reports and materials upon which the Appellant intends to rely in his defense.
- d. All testimony before the Hearing Panel shall be under oath or affirmation administered by the presiding Hearing Officer.
- e. The OCTAP Administrator (or representative) shall present any evidence and shall have the burden of proof.
- f. The Appellant (or representative) shall present any evidence in his defense.
- g. Each party shall be allowed to cross-examine witnesses in the order determined by the presiding Hearing Officer.
- h. Each party may present rebuttal evidence.
- i. The hearing will then be closed and the matter submitted to the Hearing Panel for decision.
  - (1) If further documentary evidence is to be filed, the Hearing Panel 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) calendar days after it is filed. Copies of such documentary evidence shall be served on all parties who appeared at the hearing.
  - (2) The Hearing Panel shall transmit in writing to the parties, its findings of fact, conclusions, and decision

within fifteen (15) days after the matter was submitted for decision.

#### **4.6 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 the right to call and examine witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; the right to impeach any witness regardless of which party first called the witness to testify; and the right to rebut the evidence against the party.
- c. If Appellant does not testify in his own behalf, the Appellant may be called and examined as if under cross-examination.
- d. The Hearing Panel may consider hearsay evidence as part of its 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 its decision, the Hearing Panel 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.
- e. 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 Panel 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.

#### **4.7 Findings and Determinations by the Hearing Panel**

- a. The Hearing Panel shall determine all factual issues raised by the appeal.
- b. The Hearing Panel shall make findings of fact as to whether the decision of the OCTAP Administrator is supported by evidence presented or existing in the official file.
- c. At the conclusion of the hearing, the Hearing Panel may, at their discretion:
  - (1) Uphold the OCTAP Administrator's action;
  - (2) Order a lesser penalty; or
  - (3) Overturn the OCTAP Administrator's action.

#### **4.8 Final Decision**

The decision of the Hearing Panel is final upon mailing of the written decision to the Appellant and the Appellant shall immediately surrender any permit to the OCTAP Administrator if such action is upheld by the Hearing Panel.