
**Rules of
Department of Revenue
Division 60—Motor Vehicle Commission
Chapter 4—License Denial, Disciplinary Actions and
Appeal and Hearing Procedures**

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Title 12—DEPARTMENT OF REVENUE

Division 60—Motor Vehicle Commission Chapter 4—License Denial, Disciplinary Actions and Appeal and Hearing Pro- cedures

12 CSR 60-4.010 License Denial or Disciplinary Actions

*PURPOSE: This rule establishes guide-
lines for license denial or disciplinary
action.*

(1) As provided in 12 CSR 60-2.010, the commission shall establish guidelines for use by commission staff to analyze, approve or reject requests for original licensure or renewal of license. If, pursuant to those guidelines, provisions of sections 301.550—301.572, RSMo or any commission rules, the staff decides to deny an original or renewal license, the applicant may request that the commission review the denial. The commission shall notify the applicant or licensee in writing at his/her last known address of the reasons for the denial and shall advise the applicant or licensee of his/her right to seek review of the commission decision.

(2) As provided in subsection 301.562.3., RSMo, upon a written notice and an opportunity to be heard substantially in the same manner as provided in Chapter 536, RSMo, the commission may take disciplinary action against any holder of any license issued under sections 301.550—301.572, RSMo for any one (1) or a combination of the causes provided in those sections.

*Auth: section 301.553, RSMo (Cum. Supp. 1989). * Original rule filed July 10, 1989, effective Sept. 28, 1989.*

**Original authority 1988, amended 1989.*

12 CSR 60-4.020 Review of License Denial

*PURPOSE: This rule implements sec-
tion 301.562.1., RSMo and establishes
procedures for the review of license
denial.*

(1) Any staff decision to deny licensure will be reviewed by the commission upon a written request made within thirty (30) days after the notice of denial is issued. The request—

(A) Shall be in writing addressed to the commission's office in Jefferson City;

(B) Shall contain the signature of the applicant and the applicant's current address. All future notices of any commission proceedings pertaining to that applicant shall be mailed to the address in the request for review;

(C) Shall specifically refer to the notice of denial of which the review is sought or shall contain a copy of that notice;

(D) Shall set forth the reasons for reconsideration; and

(E) Will be treated as a request for hearing and a hearing will be held unless the applicant specifically waives the right to hearing in writing.

(2) Hearings on requests for review will normally be scheduled in the order in which they are received. Notice of the hearing date, time and place will be forwarded to all parties involved. One (1) postponement for good cause may be allowed to the next available docket if a request for postponement is received six (6) days prior to the scheduled hearing date. If a request is not received within six (6) days of the scheduled hearing date, the continuation may be granted at the discretion of the hearing officer.

(3) A copy of the request for review shall be mailed to any other parties.

(4) All original hearings on requests for review of licensure denial shall be heard by the hearing officer.

(5) A verbatim transcript shall be made by the commission of all proceedings before the hearing officer and shall be available to any party at cost.

(6) In a review proceeding, the commission shall be represented by its general counsel, an assistant attorney general, or both.

(7) The applicant may be represented by legal counsel.

(8) All parties may present evidence and utilize affidavits to the extent permissible under Chapter 536, RSMo. Parties may subpoena or require the attendance of witnesses at their own expense. Witnesses are subject to cross-examination by the opposing party. All parties involved may examine available evidence prior to the appeal hearing.

(9) Subsequent to the review hearing, the hearing officer will enter a final decision separately stating Findings of Fact and Conclusions of Law. The commission, immediately upon the hearing officer's decision, shall give written notice of the decision by mailing that notice to each party, or his/her attorney of

record, and upon request shall furnish him/her with a copy of the Decision, Order, Findings of Fact and Conclusions of Law.

(10) Any interested party in a review proceeding may appeal from a final decision of the hearing officer by making an application for review within twenty (20) days from the date of the decision with the commission. A form to be used in making an application has been promulgated by the commission and is available upon request. The applicant for review is not required to use the promulgated form, provided his/her application sets forth information in regard to the case and decision which s/he seeks to have reviewed, and his/her reasons for making the application for a review of the evidence. Review by the commission will be conducted according to the procedure described in 12 CSR 60-4.080. The commission may also elect to review any final decision of the hearing officer on its own motion.

(11) Unless appealed from or reviewed by the commission on its own motion, the decision of the hearing officer shall become the final decision of the commission thirty (30) days after the date of the decision. The effective date of the commission's decision will be the compliance date set out in the notice or the date the decision becomes final, whichever is later. A properly received request for review will automatically stay an order of denial until the effective date of the commission's decision.

(12) The final decision of the commission may be appealed pursuant to the provisions of Chapter 536, RSMo.

*Auth: section 301.553, RSMo (Cum. Supp. 1989). * Original rule filed July 10, 1989, effective Sept. 28, 1989. Amended: Filed April 18, 1990, effective June 28, 1990.*

**Original authority 1988, amended 1989.*

12 CSR 60-4.030 Waiver of Hearing

*PURPOSE: This rule sets forth the
conditions in which an applicant can
waive his/her rights to a hearing.*

(1) Any applicant who has requested review of a denial of licensure may withdraw that request by filing a written notice of the intended withdrawal with the commission. If the applicant withdraws the request, the applicant shall be bound by the election and may not later request review or other hearing before the commission pertaining to the same matter.



(2) An applicant who fails to appear without good cause at any hearing which has been properly noticed under these rules shall be considered to have withdrawn the request for review.

(A) The hearing officer shall give notice of any withdrawal under this section.

(B) The hearing officer shall consider any reason for nonappearance which may be offered, provided the offer is made within thirty (30) days of the notice of withdrawal under this section.

(C) If the hearing officer finds that any reason for nonappearance constitutes good excuse, s/he may reset the hearing as the interest of justice may require.

*Auth: section 301.553, RSMo (Cum. Supp. 1989). * Original rule filed July 10, 1989, effective Sept. 28, 1989. Amended: Filed April 18, 1990, effective June 28, 1990.*

**Original authority 1988, amended 1989.*

12 CSR 60-4.040 Disciplinary Procedures and Hearings

PURPOSE: This rule implements sections 301.562.2. and 301.562.3., RSMo and establishes procedures for disciplinary actions, including the issuing of a reprimand, probation, suspension and revocation.

(1) Authority to investigate potential violations of applicable statutes and rules by a licensee will be delegated by the commission to the executive director and staff members. The staff may conduct an investigation or other review pursuant to a complaint or based upon other information received from any source indicating a possible violation. The staff and the executive director will then consult as to the results of the investigation and jointly arrive at a recommendation for appropriate disciplinary action, if a violation is found to have occurred.

(2) Should the executive director, commission staff, or both, elect to pursue disciplinary action against the licensee, a hearing will be held before a hearing officer designated by the commission. Any decision to pursue disciplinary action shall be subject to approval of a majority of the commissioners. The licensee shall receive written notice that the hearing is to take place. The hearing shall not take place prior to thirty (30) days after the date the written notice is issued. The notice shall contain—

(A) The charges alleged against the licensee;

(B) The possible penalties which may be imposed;

(C) The date and time of the hearing;

(D) The place of the hearing; and

(E) A statement that the party charged may be represented by legal counsel.

(3) Notice of the hearing date, time and place will be forwarded to all parties involved. One (1) postponement for good cause may be allowed to the next available docket if the request for postponement is received six (6) days prior to the scheduled hearing date. If the request is not received within six (6) days of the scheduled hearing date, a continuance may be granted at the discretion of the hearing officer.

(4) Hearing procedures include the following possible actions and requirements:

(A) Parties may present evidence and utilize affidavits to the extent permissible under Chapter 536, RSMo;

(B) Parties may subpoena or require the attendance of witnesses at their own expense and witnesses are subject to cross-examination by the opposing party;

(C) Hearings will be suitably recorded and preserved and transcripts of the hearing will be furnished at the expense of the requesting party; and

(D) All original hearings will be held before a hearing officer.

(5) The hearing officer shall have the right to issue subpoenas as provided in section 536.077, RSMo. Failure of any licensee to appear at any scheduled hearing without good cause shall constitute a waiver of the right to appear and confront witnesses.

(6) Any licensee who fails to comply with a subpoena to appear as a witness is subject to disciplinary action.

(7) All other proceedings pertaining to the hearing shall be substantially the same as provided in sections 536.060—536.095, RSMo.

(8) Subsequent to the hearing, but not later than ninety (90) days after the hearing, the commission hearing officer will enter his/her final decision separately stating Findings of Fact and Conclusions of Law. The commission, immediately upon the hearing officer's decision, shall give written notice of the decision by mailing that notice to each party, or his/her attorney of record, and upon request shall furnish him/her with a copy of the decision, order, Findings of Fact and Conclusions of Law.

(9) Any interested party in a disciplinary action may appeal from a final decision of the hearing officer by making an application for review within twenty (20) days from the date of the decision with the commission. A form to be used in making an application has been promulgated by the commission and is available upon request. The applicant for review is not required to use the promulgated form, provided his/her application sets forth information in regard to the case and decision which s/he seeks to have reviewed, and his/her reasons for making the application for a review of the evidence. Review by the commission will be conducted according to the procedure described in 12 CSR 60-4.080. The commission may also elect to review any final decision of the hearing officer on its own motion.

(10) Unless appealed from or reviewed by the commission on its own motion, the decision of the hearing officer shall become the final decision of the commission thirty (30) days after the date of the decision.

(11) The final decision of the commission may be appealed pursuant to the provisions of section 536.100, RSMo.

*Auth: section 301.553, RSMo (Cum. Supp. 1989). * Original rule filed July 10, 1989, effective Sept. 28, 1989. Amended: Filed April 18, 1990, effective June 28, 1990. Amended: Filed Aug. 11, 1993, effective Jan. 31, 1994.*

**Original authority 1988, amended 1989.*

12 CSR 60-4.050 Designated Hearing Officer

PURPOSE: This rule establishes the duties and powers of a hearing officer.

(1) The commission may appoint a hearing officer to assist the commission in conducting hearings and to conduct original hearings as set forth in 12 CSR 60-4.020 and 12 CSR 60-4.040. The hearing officer is empowered to make decisions concerning the conduct of hearings on behalf of the commission.

(2) The hearing officer is empowered to—

(A) Administer oaths or affirmation to witnesses;

(B) Issue subpoenas or, when necessary, subpoena for the production of documents and items;

(C) Rule on all questions of evidence;

(D) Consider and rule on all motions which may be filed during the course of the proceedings; and



(E) Make any orders and rulings required to maintain order and decorum at any hearing.

(3) The hearing officer may designate an employee of the commission to have the authority to issue subpoenas under subsection (2)(A) of this rule.

(4) In all original hearings, the hearing officer shall cause verbatim transcripts of the hearing before him/her to be produced and distributed to the commission, together with his/her final decision, Findings of Fact, Conclusions of Law and any further opinion which the hearing officer may prepare.

(5) In review hearings before the commission, the hearing officer shall cause verbatim transcripts of the hearing before the commission, together with proposed Findings of Fact, Conclusions of Law and any further opinion which the hearing officer may prepare.

*Auth: section 301.553, RSMo (Cum. Supp. 1989). * Original rule filed July 10, 1989, effective Sept. 28, 1989. Amended: Filed April 18, 1990, effective June 28, 1990.*

**Original authority 1988, amended 1989.*

12 CSR 60-4.060 Notice of Hearing

PURPOSE: This rule establishes where hearings may be held.

(1) All hearings before the hearing officer or commission shall be held in Jefferson City, Missouri unless otherwise provided in the notice of hearing. Under special circumstances and for good cause shown, the licensee or applicant may request a hearing be held in a location other than Jefferson City. That request is subject to commission approval.

(2) The hearing officer or the commission, for good cause shown, may continue any hearing at the request of any interested party or on its own motion.

*Auth: section 301.553, RSMo (Cum. Supp. 1989). * Original rule filed July 10, 1989, effective Sept. 28, 1989. Amended: Filed April 18, 1990, effective June 28, 1990.*

**Original authority 1988, amended 1989.*

12 CSR 60-4.070 Prehearing Conferences and Stipulations

PURPOSE: This rule establishes specific requirements needed to set prehearing conferences.

(1) The hearing officer shall have the authority to set prehearing conferences for hearings in which the officer deems a conference to be helpful or desirable in expediting any hearing.

(A) All prehearing conferences will be held by the order of the hearing officer with reasonable notice of time and place for a conference to parties of the hearings.

(B) Parties or counsels who will actually participate in the hearing shall be present at all prehearing conferences unless excused by the hearing officer. All parties to the hearing may appear in person or with counsels at any prehearing conference.

(2) The parties or their counsels in attendance at prehearing conferences shall be prepared to discuss all of the following items:

(A) The simplification of issues;

(B) The necessity or desirability of consolidating any issues which are the subject of a different request for hearing under these rules to avoid needless duplication and additional expenses of parties. The hearing officer shall have the authority to consolidate hearings and, on consent, hold hearings for multiple licensees;

(C) The possibility of obtaining admissions of fact or the admissibility of any documents or evidence;

(D) The limitation of the number of expert or character witnesses and the identification of witnesses.

1. The hearing officer shall have the authority to order the exchange of lists of proposed witnesses who may be called in a party's case-in-chief.

2. If witness lists are ordered exchanged, no witness may be called in the case-in-chief who is not on the witness list;

(E) Any prehearing motion filed in the case;

(F) The timing of discovery not yet completed and a date beyond which discovery may no longer be used;

(G) The anticipated length of the hearing and the time and location of the hearing; and

(H) Other matters necessary or desirable in the disposition of the hearing.

(3) The hearing officer may issue orders after a prehearing conference concerning any subject discussed and may set forth facts over which there is not substantial dispute. The order shall be binding on the parties and shall foreclose evidence on the issues excluded or facts found.

(4) The parties may enter into stipulations as to some or all of the facts either as a result of the prehearing conference or otherwise. That stipulation shall not preclude the offering of additional evidence by any party unless an order under section (3) of this rule is entered. Parties may also stipulate to a violation and suspension for any period as a result of a prehearing conference or otherwise. If a suspension is stipulated, the hearing officer shall enter a consent order in accordance with the stipulation and shall vacate the notice of formal hearing. All stipulations under this section shall be signed by the party and all attorneys of record as well as the hearing officer.

*Auth: section 301.553, RSMo (Cum. Supp. 1989). * Original rule filed July 10, 1989, effective Sept. 28, 1989. Amended: Filed April 18, 1990, effective June 28, 1990.*

**Original authority 1988, amended 1989.*

12 CSR 60-4.080 Deliberations of the Commission

PURPOSE: This rule establishes the procedures of the commission in the deliberation of a hearing.

(1) In all review proceedings before it, the commission shall consider the transcript of the original hearing, as well as the hearing officer's Findings of Fact and Conclusions of Law and Opinion. The commission may adopt the decision of the hearing officer, including his/her Findings of Fact and Conclusions of Law and Opinion; may modify any Findings of Fact or Conclusions of Law or any portion of any Opinion; may issue its own Findings of Fact and Conclusions of Law; and may issue any Opinion it believes to be desirable.

(2) After review proceedings have been initiated before the commission pursuant to 12 CSR 60-4.020(10) or 12 CSR 60-4.040(9), any interested party may file an application with the commission for permission to submit additional evidence at a hearing before the commission. Any application shall describe specifically the additional evidence to be submitted.

(3) In any review proceeding before the commission, upon giving written notice to all parties involved, the commission may conduct a hearing and receive evidence as it deems necessary.



(4) Deliberations of the commission concerning the evidence presented, its adoption of the hearing officer's Findings of Fact and Conclusions of Law or determinations of the issues of any hearing shall be closed to the public to ensure free consideration of all the issues by the commissioners.

*Auth: section 301.553, RSMo (Cum. Supp. 1989). * Original rule filed July 10, 1989, effective Sept. 28, 1989. Amended: Filed April 18, 1990, effective June 28, 1990.*

**Original authority 1988, amended 1989.*