



Building a Healthy Boston

Boston Public Health Commission

Standard Hearing Procedure

Section 1: Applicability

This regulation shall apply to all hearings and appeals for which the BPHC has not promulgated specific regulations.

Section 2: Appeal of Regulatory Violation Determinations before BPHC Hearing Officer

2.01. Any individual or entity charged with violation of any Boston Public Health Commission ("BPHC") regulation or City of Boston Ordinance shall receive a written notice from the BPHC or its agent. Such notice and any subsequent hearing notification shall be deemed a Notice of Action within the meaning of 801 CMR 1.02(6).

2.02. Not more than twenty-one (21) days after the Notice of Action postmark, the individual or entity may petition the BPHC for a hearing, by mailing or delivering a written, signed request for hearing to: Office of the General Counsel, Boston Public Health Commission, 1010 Massachusetts Ave., 6th Floor, Boston, MA 02118.

2.03. Upon receipt of a timely request for hearing, the Office of the General Counsel will schedule and conduct an Administrative Hearing, before a designated BPHC Hearing Officer and in accordance with 801 CMR 1.02, to determine relevant facts and, if warranted, the appropriate sanction. The Respondent in such hearing shall be the BPHC program which issued the original violation notice.

Section 3: Other Claims for Adjudicatory Determinations

3.01. Any individual or entity may petition the Executive Director for an adjudicatory determination regarding a particular matter. The Executive Director may make a final determination of the matter if based upon relevant facts not substantially in dispute, and with the advice of the Office of General Counsel regarding rulings of law.

3.02. If the matter concerns relevant facts that are substantially in dispute, then the Commission shall treat the petition for an adjudicatory determination as a request for hearing. The Office of the General Counsel will schedule and conduct an Administrative Hearing, before a designated BPHC Hearing Officer and in accordance with 801 CMR 1.02, to determine relevant facts and, if warranted, any appropriate action. The Respondent in such hearing shall be the BPHC program

most closely identified with the subject matter of the hearing, as determined by the Executive Director.

Section 4: Appeals from Decision of BPHC Hearing Officer

4.01. The Petitioner or Respondent may appeal the Hearing Officer's decision to the Executive Director, by filing such appeal, and all supporting memoranda and documents, within twenty-one (21) days of the Hearing Officer's decision postmark. Such appeal and supporting materials shall be addressed to the Office of the General Counsel, 1010 Massachusetts Ave., 6th Floor, Boston, MA 02118, with a copy of all documents to the opposing Petitioner or Respondent, as the case may be.

4.02. The opposing party shall file any response to the appeal within ten (10) days of the date the appeal is filed.

4.03. The Executive Director shall have the discretion to determine whether or not to hear oral argument. The Executive Director shall then make a written recommendation to the Chairperson of the Commission Board. The full record shall be made available to the Chairperson if so requested. The Chairperson shall accept, reject or amend the recommendation. The Chairperson's decision shall be the final decision of the BPHC.

Section 5: Severability

If any provision of this regulation or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are declared to be severable.

Section 5: Effective Date

This regulation shall take effect immediately upon its passage by the Public Health Commission.