

Frequently Asked Questions (FAQs) about the Transition of Consumer Affairs Hearings and Appeals to the Office of Administrative Trials and Hearings

Visit the Department of Consumer Affairs (DCA) online at nyc.gov/consumers to learn more about DCA licenses, the settlement process, and avoiding violations. To learn how hearings work at the Office of Administrative Trials and Hearings (OATH), visit nyc.gov/oath.

On June 23, 2016, Mayor Bill de Blasio signed Executive Order 18, which transferred DCA hearings and appeals to OATH. This transfer is part of [Small Business First](#) and the City's efforts to continue to make it easier and more efficient for businesses to navigate the adjudication process by having all summonses issued by City enforcement agencies handled by one administrative law court. OATH will begin hearing DCA cases after August 22, 2016.

What are the major differences as a result of the transfer?

	DCA	OATH
Rescheduling a Hearing	Your first request to reschedule a hearing was automatically granted if you submitted the request at least three business days before the scheduled hearing date.	Your first request to reschedule a hearing is automatically granted if you submit the request prior to the time of the scheduled hearing.
Vacating a Default Decision	A default decision was vacated if you submitted a request within 15 days of the date you learned of the decision and you provided a good reason for not appearing at the hearing and a valid defense to the charge(s). The cost to file a motion to vacate was \$25.	A first default decision will be vacated if you submit your request within 60 days of the date of the decision. You will not have to provide a reason why you did not appear at the hearing or a defense to the charge(s) in order for the request for a new hearing to be granted. There is no fee to file a motion to vacate.
Appeals	The cost to appeal a decision was \$25.	There is no fee to appeal a decision.
Penalties	Before the hearing, you knew the <i>range</i> of the fine you might have to pay if you were found guilty of the charge(s).	In most cases, you will know the <i>exact fine</i> you will have to pay if you are found guilty of a charge at the hearing.
Representation	It was not necessary to register to represent a respondent.	Anyone who is not an attorney who represents more than one respondent at the OATH Hearings Division within a calendar year must register with OATH. In order for a registered representative to appear at OATH on your behalf, you will have to fill out and sign a form that authorizes the representative to appear on your behalf. The Representative Authorization Form can be found on the OATH website in multiple languages.

When will OATH begin hearing DCA cases?

OATH will be holding hearings on DCA cases after August 22, 2016.

Will OATH handle all Summonses/Notices issued by DCA?

Yes. All alleged violations of DCA rules and regulations will be heard at either the OATH Hearings Division or Trials Division. The notice charging a DCA violation, which was formerly called a Notice of Hearing, will now be called a Summons.

Where will OATH hear DCA cases?

OATH will conduct hearings at several different locations. DCA will indicate the location of your hearing on the Summons.

Can I still settle a DCA violation?

Yes. You will still be able to settle most violations with DCA *without a hearing* by meeting with a DCA Settlement Officer or by accepting the Offer of Settlement that you receive in the mail.

If my hearing decision orders my business to pay a fine, where do I send the payment?

All payments are made to DCA. OATH does not process or handle payments for DCA cases. You can pay fines [online](#) by credit card or in person by credit card, check, or money order. To make a payment in person, visit the DCA Collections Division, located at 42 Broadway, 5th floor. The DCA Collections Division is open Monday through Friday from 9:00 a.m. to 5:00 p.m. and Wednesday from 8:30 a.m. to 5:00 p.m.

- Checks and money orders should be made payable to NYC Department of Consumer Affairs.
- Credit cards accepted include Visa, MasterCard, American Express, and Discover Card. Credit card payments are subject to a 2.49% convenience fee. Note: You cannot use a credit card to make an installment payment to DCA. You can only use a credit card to pay a balance in full.

My decision also refers to a recommendation. What does that mean?

If you are charged with violating certain state laws, such as the New York State Public Health Law, the New York General Business Law, and the New York Agriculture and Markets Law, OATH will issue a recommended decision on those charges. This recommended decision is not final. DCA will review OATH's recommendation and issue a final decision.

Recommended Decisions

Part of OATH's decision includes a fine and part includes a recommendation. Do I wait for DCA's final decision before paying the fine issued by OATH?

No. If the OATH decision included an order to pay a fine, payment is due immediately.

Do I have to wait for DCA's final decision before appealing OATH's decision?

No. You must appeal the OATH hearing decision within 30 days of the decision being issued. You can submit the appeal by mail or online, but you must use the *OATH Appeal Application* form to file your appeal. All forms and appeal instructions are available on the OATH website at nyc.gov/oath.

What can I do if I do not agree with OATH's recommended decision?

You can submit a written argument why OATH's recommendation should not be followed by DCA by using the [form](#) found on DCA's website nyc.gov/consumers. You must submit the form to DCA within 30 days of OATH's recommended decision.

When will DCA issue their final decision on OATH's recommended decision?

DCA will issue a written decision that either affirms, reverses, or modifies OATH's recommendation no sooner than 60 days after the recommended decision was issued by OATH.

What can I do if I disagree with an OATH appeal decision or a final decision from DCA?

An OATH appeal decision and a final decision from DCA are both considered final. If you disagree with an OATH appeal decision or a final decision from DCA, you have the right to appeal by filing an Article 78 proceeding in New York State Supreme Court. More information about Article 78 proceedings can be found on the New York State Supreme Court website.

Where can I find out more about OATH?

You can find more information about OATH, including its procedural rules, at nyc.gov/oath.

Will the transfer affect how a consumer can file a complaint against a business?

No. Consumers can still call 311 or visit nyc.gov/consumers to file a complaint about a business with DCA.