



Press Credentials

A Guide to Your Trial at the OATH Trials Division

Office of Administrative Trials and Hearings

100 Church Street, 12th Floor, New York, NY 10007

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Press Credentials Cases Heard at OATH

The Press Credentials Office (“PCO”) of the NYC Mayor’s Office of Media and Entertainment (“MOME”) issues **press credentials** (also called “**press cards**”) to allow authorized members of the press to cross NYPD lines, fire lines, and other barriers established by the government of the City of New York and attend events sponsored by the government of the City of New York that are open to members of the press.

OATH hears three kinds of cases involving press cards:

- (1) Denial: A case brought by a press card applicant who believes the PCO wrongly denied a press card application (this kind of case is called an “appeal”).
- (2) Suspension: A case brought by the PCO when it seeks to suspend a press card temporarily (usually for 6 months or less).
- (3) Revocation: A case brought by the PCO when it seeks to revoke a press card for a longer period than a suspension.

These cases are about a member of the press’s authorization to cross NYPD lines, fire lines, and other barriers established by the government of the City of New York and attend events sponsored by government of the City of New York that are open to members of the press.

These cases are not about whether a person can work as a journalist and gather news in New York City. A press card is not necessary to work as a journalist and gather news in New York City.

On the PCO webpage, at <https://www1.nyc.gov/site/mome/press-card/press-card.page>, you can read more about press cards including Frequently Asked Questions and read the Press Credentials Rules, which are codified at Title 43 of the Rules of the City of New York Chapter 16 (“43 RCNY Chap. 16”). See the rules at https://www1.nyc.gov/assets/mome/pdf/Final_Press_Credential_Rule_2021.pdf.

Hearings About a Denial of a Press Card

1. Basis for Denying a Press Card Application

The PCO may deny a press card application for one or more of the reasons in the Press Credentials Rules, 43 RCNY section 16-06(a). The PCO will notify you in writing if your application for a press card is denied. The notice will include the basis for the denial.

2. Right to Trial

You have a right to request a trial at OATH if the PCO denies your press card application. This is called an appeal as you are appealing the PCO denial of your press card application. Through the trial process, an OATH Administrative Law Judge will consider your appeal and decide if a denial of your press card application is proper.

Note that you, as the press credential applicant, bear the burden of proof in a hearing about a denial of a press card and you must present a case that convinces the judge that your claims are more likely true than not true.

3. How to Request a Trial

To appeal the denial, you must request a trial within 65 days of the date of the notice from the PCO. Your request must be in writing. To request a trial, follow the instructions on the PCO webpage at <https://www1.nyc.gov/site/mome/press-card/press-card.page>.

4. Your Trial Date and Time

OATH must hold a trial within 60 days of the date the PCO receives your request, unless one of the following exceptions apply:

- You and the PCO both agree to a later trial date.
- OATH grants an adjournment to a later trial date.
- Extraordinary circumstances prevent OATH from scheduling the trial date within 60 days.

The PCO will notify you of the time and date of the trial and explain how to reschedule it.

5. Written Decision

OATH will issue a written decision granting your appeal or denying your appeal. If OATH grants your appeal, PCO must promptly provide you with a press card. If OATH denies your appeal, PCO's decision stands.

Hearings About a Suspension or Revocation of a Press Card

1. Basis for Suspending or Revoking a Press Card

The PCO may seek to suspend a press card for one or more of the reasons in the Press Credentials Rules, 43 RCNY section 16-06(b). The PCO may seek to revoke a press card that was issued to you for one or more of the reasons in the Press Credentials Rules, 43 RCNY section 16-06(c). See the rules at

https://www1.nyc.gov/assets/mome/pdf/Final_Press_Credential_Rule_2021.pdf.

2. Right to Trial

You have a right to a trial if the PCO seeks to suspend or revoke a press card that has been issued to you. An OATH Administrative Law Judge will decide if a suspension or revocation of your press card is proper.

3. Notice of Hearing

The PCO will issue a Notice of Hearing ("NOH") and Petition to you if the PCO seeks to suspend or revoke your press card. The NOH and Petition will provide the date and time you must appear at OATH for the trial, your rights under [OATH's rules of practice](#), and the reasons why the PCO is seeking to suspend or revoke your Press Card.

If you cannot appear on the date of the trial provided in the NOH, you can ask to reschedule it. Contact information for the PCO and OATH will be provided on the notice.

4. Burden of Proof

The PCO cannot suspend or revoke your press card until after the hearing. The burden of proof is on the PCO which must prove to the OATH judge by **clear and convincing evidence** that suspension or revocation of your press card is proper.

5. Period of Suspension

Your press card may be suspended for up to 6 months. A press card may be suspended for longer if the suspension resulted from a lawful arrest or indictment based on the press card holder's commission of a misdemeanor or felony.

The judge will consider the following factors when deciding how long to suspend your press card:

- Whether misconduct actually occurred.
- The seriousness of any misconduct.
- The risk that you will engage in future misconduct.
- Your history of press card suspensions or prior press card revocation, if any.
- Any other factors that you or the PCO raise at the hearing.

If your Press Card is suspended, you cannot get or use another press card during the period of suspension.

If a press card expires during the suspension period, a press card holder cannot apply for a new press card until the suspension period is complete. This requirement applies to Standard Press Card holders, Reserve Press Card holders, and Single Event Press Card holders.

6. Period of Revocation

If a press card is revoked, a press card holder cannot apply for a new press card until one year after the date of the written decision to revoke your press card. The press card holder also cannot obtain or use any press card during the 1-year revocation period. This requirement applies to Standard Press Card holders, Reserve Press Card holders, and Single Event Press Card holders.

Should I Get A Lawyer?

We encourage you to **get a lawyer** or a **knowledgeable representative** to help you at OATH. You have the right to appear with a lawyer or representative at OATH.

- ▶ You must make your own arrangements with a lawyer or representative. This means you are responsible for asking whether they will charge you money. You must also be sure to give them any notices about your OATH trial.
- ▶ If you have a criminal case pending, advise your criminal lawyer about this trial. What you say at an OATH trial could be used against you later in a criminal case.

Where Do I Go?

If your press card application is denied, you will receive a “Hearing Request Form” from the Mayor’s Office of Media and Entertainment’s Press Credentials Office. That form allows you to request your OATH trial to be conducted by video or in person.

If you receive a notice from the Mayor’s Office of Media and Entertainment’s Press Credentials Office about a petition to suspend or revoke your press card, information will be included about how you can request to appear at your OATH trial by video or in person.

If you request to appear at OATH by video, you will be provided with log-in information prior to the conference and hearing date. If you request to appear at OATH in person, report to the following address at the time of your appearance:

Office of Administrative Trials & Hearings

100 Church Street, 12th Floor
New York, NY 10007

For questions, contact OATH at:

Phone: (212) 933-3097

Email: oathcalunit@oath.nyc.gov

Be On Time

▶ What Happens If I Am Late?

Be on time for your trial. If you are late, a trial could take place without you and the judge could rule against you.

▶ How Can I Reschedule?

If you cannot get to a scheduled conference or trial, you must call or email the PCO representative named on the hearing/trial notice and OATH as soon as possible. Both you and the PCO representative must be on the phone call. You can ask the judge if you can come to OATH on another date.

Will You Need An Interpreter?

If you need an **interpreter**, OATH will provide one for free. OATH uses interpreters by phone. They talk on video or by telephone during the trial.

In addition, OATH provides free document translation. If you have evidence in a language other than English, contact OATH about free translation.

What Is A Conference?

Before the trial begins, a judge will meet with you and someone from the PCO to see if the case can be settled. This is called a **conference**.

- ▶ You may appear with or without a lawyer or representative of your choice.
- ▶ The conference judge will explain what happens at OATH and discuss ways you and the PCO can settle your case.
- ▶ You can ask questions.
- ▶ You may settle your case with the PCO if a settlement is offered, but you do not have to settle. It is up to you. Settlement is voluntary. It takes both sides, you and the PCO, to make a settlement. The judge will work with both sides to see whether there are terms that are acceptable to you and the PCO.
- ▶ If you don't settle, you can have your trial. You have the right to a trial.

What Is A Trial?

How Can I Prepare For My Trial?

- ▶ If your case is not settled in the conference, a different judge will hold a trial. The trial is like a court trial.
- ▶ Bring any documents, witnesses, or other evidence that you think can help your case.
- ▶ Before you come for your trial, you and the PCO can ask each other for documents about your case – i.e., the documents each side will show the judge. These requests should be in writing
- ▶ You can also ask the judge to sign a document called a **subpoena** that will require [witnesses](#) to come to your trial. You can also ask for a subpoena that requires someone to give you [documents](#). You can also ask for a subpoena that requires someone to [both testify and give documents](#).
- ▶ You may appear at the trial with or without a lawyer or other representative of your choice.

Can I get more time?

- ▶ If you need more time, you have the right to ask the judge for more time. This is called an **adjournment**. You can ask for more time if you want to get an attorney or representative or have another good reason to delay the trial.
- ▶ The judge will decide whether or not you can come back another day.

What Happens During My Trial?

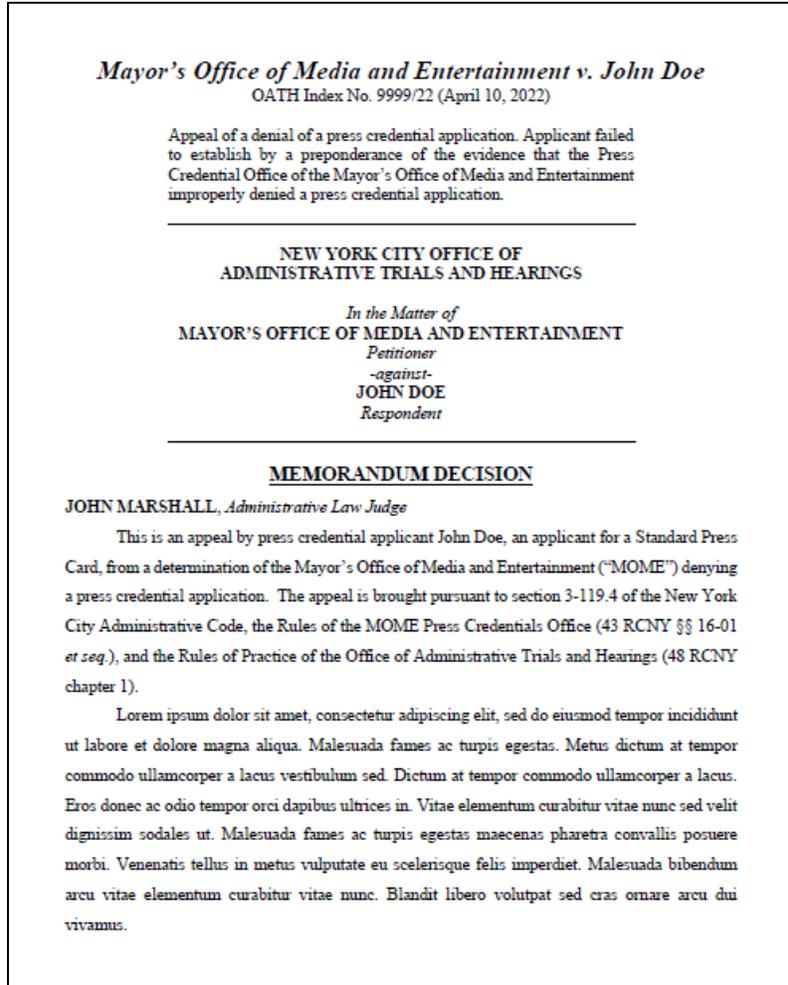
- ▶ Both you and the PCO may make **opening statements**. An opening statement is a summary of what the speaker plans to prove.
- ▶ Then the PCO will present evidence and may call witnesses to testify. Witnesses are sworn in. That means they take an oath to tell the truth.
- ▶ The PCO's lawyer will ask the witnesses direct questions about what happened.
 - ▶ These are open-ended questions like "Who, What, When, Where, How? What did you see? What did you hear? What do you know?"
- ▶ Then you have the right to ask questions of witnesses the PCO calls to the witness stand. This is called **cross-examination**.
 - ▶ These can be **leading** questions that ask the witness to answer yes or no to something you state. These questions can begin, for example, with "Isn't it true that. . . ?" Or leading questions can end with words like, ". . . isn't that correct?" or ". . . , right?"
- ▶ After the PCO presents its evidence, it is your turn to offer evidence and call witnesses. Your witnesses will also be under oath. You can ask **direct** questions of your witnesses.
- ▶ When you are done with your questions, the PCO may then **cross-examine** your witnesses.

Should I testify?

- ▶ It's up to you. You may have a hard decision to make about whether to testify.
- ▶ It is best to consult a lawyer about the decision whether or not to testify at your OATH trial.
- ▶ You have the right under the Fifth Amendment of the U. S. Constitution not to testify if your testimony would tend to show that you are guilty of a crime.
- ▶ But if you choose not to testify at OATH, the OATH judge may find that your silence means that your testimony would not be favorable to you –that you agree with what the PCO has said.
- ▶ **Any testimony you give at OATH can be used against you in a criminal case.**
- ▶ Although your refusal to testify cannot be held against you in a **criminal** case, the trial at OATH is different. These are **civil**, administrative proceedings at OATH.
- ▶ If you testify, the judge will ask you to give your statement under oath.
- ▶ The PCO's lawyer can ask you questions.
- ▶ The judge may ask questions of you or any witness.
- ▶ Finally, both sides may make closing statements. A closing statement is a summary of what you think you have proved. You can ask the judge for the result you want.

What Happens After the Trial?

After the trial ends, the OATH judge will issue a decision. It will look like this:



- ▶ You will receive a copy of the decision by email. If you do not have an email address, you will receive the decision by regular mail.
- ▶ The judge's decision is also posted publicly on the internet and can be found by searching [OATH's website](http://a820-isys.nyc.gov/ISYS/ISYS.aspx) (at <http://a820-isys.nyc.gov/ISYS/ISYS.aspx>) or New York Law School's [Center for New York City Law](https://www.nyls.edu/cityadmin/) website (at <https://www.nyls.edu/cityadmin/>).
- ▶ If OATH rules against you, you may appeal the OATH decision to the State Supreme Court. Note: There is no appeal available at OATH or MOME.

Legal Services

You may wish to contact your local bar association or legal services provider to see if you can find a lawyer who will take your case at no charge or for a negotiated fee. You may try calling the organizations below:

New York Civil Liberties Union

The New York Civil Liberties Union (NYCLU) offers legal advice and representation in certain cases. To submit a request for legal assistance, complete the form available at <https://www.nyclu.org/en/about/legal-assistance> and email it to legalintake@nyclu.org.

Note: This partial listing of legal services organizations is provided as a public service. OATH does not give legal advice and does not recommend any particular attorney or organization.

More Information

You can read more about OATH and look at case law and rules by visiting the OATH website at <https://www1.nyc.gov/site/oath/trials/trials.page>.

A searchable database of OATH's decisions can be found for free at <http://a820-isys.nyc.gov/ISYS/ISYS.aspx> or at New York Law School's [Center for New York City Law](http://www.nyls.edu/cityadmin/) website (at <https://www.nyls.edu/cityadmin/>).