



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Help Center

OATH INFORMATION FOR RESTAURANT OWNERS

When Will My Restaurant Be Inspected? Every food service establishment in NYC receives an unannounced, onsite inspection at least once a year. The inspector may visit any time that the restaurant is receiving or preparing food or drink, or is open to the public.

Can I Disagree With What The Inspector Said? Yes. The law of New York City allows you to challenge any of the inspector's observations or conclusions at an administrative hearing, held at OATH.

How Is My Letter Grade Determined? Every violation of the NYC Health Code, or other NYC laws, rules or regulations observed during an inspection is connected to a certain amount of "points." The greater the violation's danger is to the public, the higher the points that it is assigned. At the end of the inspection, the points are added together for an inspection score. Lower inspection scores mean better letter grades and smaller penalties. The letter range grade is as follows: a total score of 0-13 points = an "A" grade; 14-27 points = a "B" grade; and 28 or more points = a "C" grade.

Note: The lower your inspection score, the less often you are inspected by the Health Department. If you receive less than 14 points in your first inspection of the year, you receive a final "A" letter grade immediately and any and all penalties from the inspection are waived. If you receive 14 or more points during your first inspection of the year, you will be re-inspected. You will then receive a "grade card" and a "grade pending card." You can post either card until the date of your OATH hearing. If you receive less than 14 points in your re-inspection, all penalties from that specific inspection will be waived. For more information see:

- <https://www1.nyc.gov/assets/doh/downloads/pdf/rji/how-we-score-grade.pdf>
- <https://www1.nyc.gov/assets/doh/downloads/pdf/rji/restaurant-grading-penalty-relief-faq.pdf>
- <https://www1.nyc.gov/site/doh/business/food-operators/letter-grading-for-restaurants.page>

Note: Letter grades are not issued to mobile food vending units, temporary food service establishments, food service establishments operated by primary or secondary schools, hospital-operated cafeterias, correctional facilities, charitable organizations (including soup kitchens or other prepared food distribution programs) or food service establishments operated by not-for-profit membership organizations that serve food only to their members.

Violations can be "critical" or "general" depending on the risk to the public's health. Critical violations are given more points. Violations can also be of different "condition" levels. For example, if your restaurant is observed during an inspection with 3 fruit flies that could be a lower "condition" than if your restaurant is observed with 20 fruit flies. The higher the "condition," the more points that you receive and the higher your penalty can be. If you believe that the "condition" described by the inspector is incorrect you have the right to present that to the OATH Hearing Officer during your hearing.

Note: A breakdown of the different conditions for most DOHMH violations can be found beginning on pg. 8 of the "What to Expect When You're Inspected" DOHMH document, available here:
<https://www1.nyc.gov/assets/doh/downloads/pdf/rji/blue-book.pdf>

How Is My Potential Penalty Calculated And How High Can It Be? The potential penalty depends on the number of violations alleged, as well as whether they are "critical" or "general" and the "condition" alleged. Each individual violation observed can result in a penalty. Penalties are set by law and can range from \$200 to \$2000. Penalties can be higher if you are treated as a "repeat" offender.

Is There Anyone Who Can Help Me Prepare For My OATH Hearing? If you do not have a lawyer or a paid, professional, registered representative, OATH will provide you with the opportunity to speak with an OATH Help Center - Procedural Justice Coordinator, for FREE, who can provide you with legal information and resources to help you prepare for your hearing at OATH. These individuals can provide you with information about the hearing process, the options available to you, and answer questions that you may have. To set up an appointment with a Help Center Procedural Justice Coordinator please contact the OATH Help Center in person at any OATH location, Monday to Friday, from 8:00am-5:00pm, via telephone at (212) 436-0845, or via email at Smallbizhelp@oath.nyc.gov.

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