

PROCEDURES FOR APPEALS TO THE COMMISSION IN  
DISCRETIONARY REVOCATION CASES

1. Pursuant to 68-11 of the Commission's rules, a licensee may appeal the Chairperson's decisions in discretionary license revocation cases to the Commissioners within 30 calendar days of the Chair's final decision. The Chairperson hereby adopts the following procedures for the conduct of such appeals.
2. The appeal must indicate the basis for the appeal and include all supporting statements and arguments.
3. Upon receipt by the Deputy Commissioner for Legal Affairs/General Counsel or a designee (the "General Counsel") of the appeal and satisfaction that the appeal is timely, the General Counsel shall notify the TLC prosecuting attorney (the "Commission attorney") that he/she may file a response to the appeal within 14 calendar days.
4. The response to the appeal shall be served on the licensee by the Commission attorney, a copy of which shall be provided to the General Counsel. The licensee shall have 7 calendar days to file a reply to the Commission attorney, a copy of which shall also be provided to the General Counsel.
5. Upon completion of filing of all appeals papers, the General Counsel shall prepare a summary of the appeal, and shall arrange for the appeal to be placed on the agenda of a Commission meeting. In advance of the Commission meeting, the Commissioners shall be furnished with the summary and:
  - (a) The Chairperson's decision from which the appeal is taken;
  - (b) The Administrative Law Judge's recommendation;
  - (c) The licensee's response to the ALJ's recommendation;
  - (d) The licensee's appeal;
  - (e) The response to the appeal; and
  - (f) The licensee's reply.
6. Before the appeal is heard, the Chairperson will entertain a motion that the Commission go into executive session, and, upon approval of such motion, the Chairperson shall be recused and shall not participate in or be present for the conduct of the appeal. The General Counsel shall preside during the appeal in the absence of the Chairperson. The General Counsel shall not vote but may advise the Commissioners.
7. Neither the licensee, nor the Commission attorney, nor any person acting on behalf of either of them, shall communicate, or attempt to communicate, directly or indirectly, with any Commissioner about the appeal while it is pending.
8. The appeal will be decided based solely on the papers submitted to the Commissioners as described in paragraph 5 above.
9. The Commission's deliberations shall not be transcribed. The minutes of the executive session shall state the name of the case on appeal, the disposition of the appeal, and names of the Commissioners voting for the disposition, voting against the disposition, and abstaining.
10. The Commissioners may affirm, reverse, or modify the determination of the Chairperson by vote of at least five Commissioners.

11. The General Counsel shall notify the parties of the Commissioners' decision promptly after such decision is rendered. The decision of the Commissioners shall be announced at the next public meeting of the Commission. The Commissioners' decision constitutes the final agency decision subject to judicial review in a proceeding commenced pursuant to Article 78 of the Civil Practice Law and Rules.