

**State of New Mexico, Administrative Hearings Office**  
**Explanation of the Hearing Process (Implied Consent Act)**

**Hearing Process**

The purpose of the hearing you have requested is to determine if the proposed revocation of your driver's license or driving privileges by the Motor Vehicle Division is proper and in accordance with the provisions of the Implied Consent Act of New Mexico (66-8-105 to 66-8-112, NMSA 1978). The hearing process will be conducted pursuant to Regulation 22.600.6 NMAC, which can be found online at <http://www.nmcpr.state.nm.us/nmac>. The administrative hearing is limited to a consideration of the issues indicated on the hearing notice and those listed in Section 66-8-112 (E), NMSA 1978.

**Distinction Between Criminal and Administrative Hearing**

This hearing is not related to the court hearing on the criminal charge of DWI. Questions about your criminal case should be directed to the clerk of the court hearing your case or your attorney. All questions about this administrative hearing should be directed to the Administrative Hearings Office Scheduling Unit at (505) 827-0358. **A CONTINUANCE OF YOUR CRIMINAL CASE OR DISMISSAL OF THE CRIMINAL CHARGES HAS NO EFFECT ON THE ADMINISTRATIVE HEARING.** However, if as a result of a criminal conviction, you no longer wish to contest the proposed revocation of your driving privileges, you may submit a written request to withdraw your Implied Consent Act hearing request. By submitting a withdrawal of your hearing request, the scheduled hearing date will be cancelled and the revocation of your driving privileges will be sustained without a hearing.

**Conduct of the Hearing**

Your hearing will be heard by a hearing officer, who is an attorney and Administrative Law Judge with the Administrative Hearings Office ("AHO"). AHO is an agency independent of the Motor Vehicle Division. **YOU MUST APPEAR AT THE HEARING AT THE SCHEDULED TIME.** The Hearing Officer will wait only ten (10) minutes for you. If you do not appear, your license will be revoked. Because the hearing is informal, the technical rules of evidence do not apply. However, all testimony must be given under oath. If subpoenaed to the hearing, the Motor Vehicle Division will first present its witness, the police officer. After the police officer testifies, you will be given the opportunity to ask any relevant questions, testify and present any relevant documents or other witnesses. Please have all the evidence, exhibits and any witnesses you intend to present ready at the time of the scheduled hearing. The records will not be left open beyond the day of the hearing, unless so ordered by the hearing officer.

You may be represented by an attorney at your own expense. It is the driver's sole responsibility to secure an attorney by the time of the hearing. If you are unable to appear at the hearing, you may have an attorney appear on your behalf in order to avoid losing your right to a hearing. Given the strict jurisdictional deadlines for conduct of the hearing, the absence of an attorney is not a basis for a continuance. The hearing officer's written decision (Decision and Order) will be mailed to you, and will explain your appeal rights.

### **Continuances**

A request for a continuance may be requested in writing if you have good cause and if it is received by the Administrative Hearings Office Scheduling Unit at least three (3) working days prior to the day the hearing is scheduled, absent extraordinary circumstances which the requesting party could not have known earlier. No continuance will be granted beyond ninety (90) days after the Notice of Revocation. Fax or mail any continuance request to: Administrative Hearings Office Scheduling Unit at (505) 827-0500 or P.O. Box 6400, Santa Fe, New Mexico 87502.

### **Discovery**

All requests for documents, including DVDs or videos pertaining to your arrest must be mailed to: Taxation and Revenue Division Legal Services Bureau, Attn: DWI Legal, P.O. Box 630, Santa Fe, New Mexico 87504-0630. You may fax request to (505) 827-0684. If the Legal Services Bureau receives a request, it can provide copies of documents within the files of the Motor Vehicle Division and can issue a discovery order for documents that are in the custody of the police agency. If the police agency does not make the documents you request available in a timely manner, you must notify the Department in writing pursuant to Regulation 22.600.6.12 (B) NMAC.

### **Witnesses**

Requests to subpoena witnesses must be made in writing no later than ten (10) days before the hearing. Requests should be mailed to the Administrative Hearings Office, P.O. Box 6400, Santa Fe, New Mexico 87502. Attorneys must prepare a proposed subpoena using the form subpoena provided to them by the Scheduling Unit. You may fax request to (505) 827-0500. The party requesting the subpoenas is responsible for associated costs and actual serving of the subpoenas. Please make sure that all your witnesses are available at the time of the hearing.

### **Conduct of Telephonic and Videoconference Hearings**

If the hearing is scheduled as videoconference or telephonic hearing, you have 10-days to file an objection. Inaction within 10-days will be deemed as consent to proceed with a telephonic or videoconference hearing. If you've not previously demanded an in-person hearing or objected to a remote hearing, under Regulation 22.600.6.10 (D) NMAC, you may request to appear via telephone or videoconference from a location convenient to you at least three days before the scheduled hearing. By requesting such a remote appearance, you waive the in-person hearing requirement and you have consent to all parties, witnesses, and the hearing officer appearing telephonically at the hearing. Failure to call in for a telephonic or videoconference hearing using the instructions contained in the notice of hearing by 10-minutes after the start of the hearing will be treated as non-appearance. All exhibits, videos, or other documents you wish to present during a telephonic or videoconference hearing must be submitted to the Hearing Officer prior to the hearing as indicated on the notice of hearing, or mailed well in advance to the Administrative Hearings Office Scheduling Unit, P.O. Box 6400, Santa Fe, New Mexico 87502. For package delivery, please address items to Administrative Hearings Office, 1220 S. St. Francis Drive, Rm. 264, Santa Fe, NM 87504.

If you do not speak or understand English, you must bring a person who can translate for you. This person does not have to be a court certified interpreter. **\*Si usted no habla ni entiende ingles, tiene que traer alguna persona que le pueda traducir. Esta person no tiene que ser certificado por la corte\*.**