

## § 76719. Informal Conference.

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(a) The district administrator or designee shall hold, within four business days from the receipt of the licensee's request, an informal conference.

(1) The licensee shall have the right to be represented by legal counsel, to present oral and written evidence or other information on its behalf, and to explain any mitigating circumstances.

(2) The representatives of the Department who issued the citation should attend the conference and present whatever evidence or information, oral or written, in substantiation of the alleged violation.

(3) The conference shall be a simple informal proceeding, and shall not be conducted in the manner of a judicial hearing or as a hearing under the Administrative Procedure Act, Chapter 5, commencing with Section 11500, of Part 1 of Division 3 of Title 2 of the Government Code, and need not be conducted according to technical rules relating to evidence and witnesses.

(4) Neither the licensee nor the Department shall have the right to subpoena any witness to attend the conference, nor to formally cross-examine any person testifying at the conference. However, both the licensee and the Department may present any witness on its behalf at the conference.

(5) At the conclusion of the informal conference, the district administrator or the designee conducting the conference, may affirm, modify or dismiss the citation, the proposed assessment of a civil penalty, or the date of correction of a violation.

(b) If the district administrator or designee modifies or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity, in writing, the reasons for such action and shall immediately transmit a copy to each party to the original complaint, if any.

(c) If the licensee desires to contest the decision made after the informal conference, he or she shall inform the district administrator in writing by registered or certified mail within four business days after he or she receives the decision of the informal conference.

(d) If the licensee fails to so notify the district administrator in writing that he or she further intends to contest the citation or the proposed assessment of a civil penalty or the decision made by the district administrator or designee after an informal conference within the time specified, the citation or the proposed assessment of a civil penalty or the decision by the district administrator or designee shall be deemed a final order of the Department and shall not be subject to further administrative review.

(e) If a licensee notifies the district administrator or designee, in writing, by registered or certified mail that he or she intends to contest a citation or the assessment of a proposed civil penalty, after a formal conference has been held, the Department shall refer the matter immediately to the Attorney General for appropriate action in the Superior Court of the county in which the facility is located.

Note: Authority cited: Section 208 (a), Health and Safety Code. Reference: Sections 1276 and 1428, Health and Safety Code.

22 CCR § 76719, 22 CA ADC § 76719