

**DIVISION OF ADMINISTRATIVE LAW**  
*CONTINUANCE POLICY*  
**POLICY Number:**

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**Updated July 9, 2012**

**1. AUTHORITY**

Director of the Division of Administrative Law as contained in La. R.S. 49:991 et seq.; Section 703 of Title VII of the Civil Rights Act of 1964; Louisiana Constitution Arts. 1 §3 and §12.

**2. PURPOSE**

To establish the Division of Administrative Law (DAL) continuance policy.

**3. APPLICABILITY**

This policy applies to all participants in proceedings, including, but not limited to, attorneys, law enforcement, witnesses, petitioners, respondents, and appellants; and to all DAL judges and support staff.

**4. POLICY**

It is the Director's policy that continuances shall be granted only upon a showing of good cause. Granting a continuance will be the exception, not the norm.

**5. DEFINITIONS**

**Good Cause** - Good cause exists when the need for a continuance is unforeseen, is not due to a lack of preparation, is brought to the Tribunal's attention in a timely manner, and does not unduly prejudice the opposing party. Late service of any document providing notification of the proceeding, including witness subpoenas, may be good cause. For purposes of establishing good cause in matters that do not involve expedited hearings, there is a presumption of late service if the document is served within seven days of the date set for hearing.

**6. PROCEDURE**

- A.** Continuances may only be approved by the Administrative Law Judge (ALJ).

- B.** All continuance requests shall be in writing using the Continuance Request Form provided by the Clerk of Court, and may be mailed, faxed, or hand-delivered. The ALJ may accept an oral request for a continuance where exigent circumstances prevent the immediate submittal of a written request. However, in such cases the oral request shall be followed-up with a written request. The Tribunal may entertain written requests from unrepresented parties if not made on the approved form as long as the required information is provided.
- C.** A continuance request may be granted if the Tribunal receives the continuance request at least seven days prior to the date of the hearing, subject to other provisions in this policy regarding timeliness.
- D.** Requests for continuances based upon emergencies shall be decided on a case-by-case basis.
- E.** Requests made at the time of the hearing may be granted only upon a showing that to proceed with the hearing would not be in the best interest of justice.
- F.** Documentation substantiating the request for continuance (i.e. proof of necessary hospitalization, pre-paid vacation, military service, notice of hearing in another court when such hearing was set before the administrative hearing, etc.) shall be submitted with the motion.
- G.** The ALJ may condition the granting of a continuance on the mover agreeing to certain conditions that the ALJ deems appropriate.
- H.** Examples:

The following are illustrative only. The Tribunal shall not automatically grant continuances:

- i. Due to a lack of preparation;
- ii. Where any party elects to have medical care on the date of the hearing;
- iii. Where a hearing in another court is scheduled after notice of the administrative hearing had been transmitted;
- iv. Where the request for the continuance is the result of the Respondent not retaining counsel in a timely manner.

**I. Responsibility**

The Administrative Law Judge and the Clerk of Court shall be responsible for the application of this policy. The moving party (not the Clerk) shall determine whether the request has been granted. To the moving party: Unless you receive confirmation that the hearing has been continued, the request for continuance is deemed denied and the hearing will proceed as scheduled. In the event you fail to appear, the matter may be dismissed in accordance with LAC I:III §531(B).

**J. Evaluation of Motions for Continuance**

Some of the factors to be considered when deciding whether to grant or deny a motion for continuance may include:

- i. The opportunity to exercise the right to effective assistance of counsel. (Note: this factor addresses the opportunity to exercise the right. A party's lack of diligence in retaining counsel in a timely manner does not constitute a lack of opportunity to exercise the right to counsel.
- ii. The age of the matter and the seriousness of the matter.
- iii. Whether the matter has federal or statutory deadlines.
- iv. The incarceration status of a party.
- v. The potential impact of a continuance on the safety of the parties or any other persons, including the public in general.
- vi. The number of previous continuances, the moving party in previous continuances, and the grounds for previous continuances.
- vii. Whether or not the party requesting the continuance was consulted regarding available dates when previous continuances were granted.
- viii. The due diligence of the mover in promptly making a motion for continuance as soon as practicable and notifying opposing counsel and witnesses.
- ix. The period of delay caused by the continuance requested.
- x. The presence of witnesses.
- xi. The availability of witnesses for the present session or for a future session.
- xii. Whether the basis of the motion is the existence of a legitimate conflict with another court session.
- xiii. The availability of counsel.
- xiv. Consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued.
- xv. When a continuance is requested within seven days of the hearing, whether the cause for the continuance request did not previously exist, or that the mover was previously unaware of the grounds for the request.
- xvi. Any other factor that promotes the fair administration of justice.

**APPROVED:**

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**ANN WISE, DIRECTOR**  
**JULY 9, 2012**

New Policy, effective July 9, 2012