

**JACKSONVILLE TRANSPORTATION AUTHORITY**

**PUBLIC AND ADMINISTRATIVE HEARINGS RULE  
(RULE NO.006)**

**DATE OF ADOPTION: August 27, 2009**  
**LAST REVISED: June 24, 2010**

## **PUBLIC AND ADMINISTRATIVE HEARINGS**

### **I. Purpose and Scope.**

(a) Purpose. The purpose of this rule is to set forth the procedures the Jacksonville Transportation Authority ("JTA") shall follow when conducting public hearings and administrative hearings and in order to provide a person whose substantial interests have been affected a reasonable opportunity for presentation of evidence, argument and oral statements.

(b) Scope. JTA shall conduct public hearings for rulemaking purposes and as required by law or directed by its Board, and JTA shall conduct administrative hearings prior to entry of any final order to deny, suspend, revoke, or withdraw rights, to impose fines or penalties, or to take other enforcement or disciplinary action including but not limited to: (i) debarment and suspension proceedings; (ii) suspension of transit (any mode or method) riding privileges for failure to abide by JTA rules and regulations, including without limitation JTA's no-show policy for paratransit services ("No-Show"); (iii) bid protest proceedings; (iv) denial of Americans with Disabilities Act eligibility for paratransit service ("Eligibility"); and (v) imposition of fines or penalties by JTA. The procedures provided for by this rule shall be followed in such hearings, as applicable. There are other rules of the JTA which set forth the rules of procedure for conducting hearings in certain circumstances, and where applicable, hearings shall be conducted as provided for therein. Without limiting the foregoing, public hearings for rulemaking proceedings shall be conducted as provided for in the Rulemaking rule and administrative hearings for contract award and solicitation protests shall be conducted as provided for in the Award and Solicitation Protests rule. This rule shall not apply to fines or penalties which may be imposed pursuant to the terms of contracts with the JTA. Public hearings, when required by law, shall be held in accordance herewith, subject to specific and contrary requirements of such law.

### **II. Application for Administrative Hearing; Procedure.**

(a) Any person who has received notice of a denial, revocation or withdrawal or suspension of rights (including without limitation debarment), a notice of denial or suspension of transit privileges, or who has been assessed a fine or penalty by JTA (other than a fine or penalty imposed pursuant to contract) shall, upon written request to the JTA, be entitled to an administrative hearing. The request for hearing shall be made within thirty (or, in the case of denial of Eligibility or suspension for No-Show for paratransit services, or matters relating to relocation benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act within sixty) calendar days of receipt of a notice of denial, revocation or withdrawal or suspension of rights (including without limitation debarment), notice of suspension or denial of transit riding privileges, or notice of assessment of a fine or penalty. In the event that the applicable calendar day falls on a weekend or JTA holiday, the time period is extended to the next following business day of JTA. Upon receipt of a written request for hearing, subject to the provisions below, the JTA shall fix the time and place of the hearing and shall give written notice thereof to the applicant at least fourteen calendar days prior to the date fixed for the hearing, notice thereof to be effective upon mailing. Such time requirements may be waived by JTA and the applicant in writing. Other time periods mandated by applicable federal or state law shall

control in the event of a conflict between the time period specified in this Rule and the time period specified in such law.

(b) All requests filed under this rule shall contain:

(i) The name, address, and telephone number of the applicant for the hearing; the name, address, and telephone number of the applicant's representative, if any, which shall be the address for service purposes during the course of the proceeding; and a detailed explanation of how the applicant's substantial interests will be affected by the JTA action;

(ii) A statement of when and how the applicant received notice of the JTA decision;

(iii) A statement specifically identifying all disputed issues of material fact, and of all conflicts of law involved, if any. If there are no disputed issues of material fact, the application must so indicate;

(iv) A concise statement of the ultimate facts alleged, including the specific facts the applicant contends warrant reversal or modification of the JTA's proposed action;

(v) A statement of the specific rules or statutes the applicant contends require reversal or modification of the JTA's action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(vi) A statement of the relief sought by the applicant, stating precisely the action applicant wishes the JTA to take.

(c) Upon receipt of an application for an administrative hearing in which the applicant asserts disputed issues of material fact, the JTA shall refer the matter for staff reconsideration to a senior staff member not associated with the original determination, and in the event that there is no change in staff position, JTA shall grant or deny the application according to whether there are or are not, in the determination of the JTA's General Counsel, disputed issues of material fact. If JTA's General Counsel determines that there are no disputed issues of material fact, he or she shall notify JTA and JTA shall so inform the applicant in writing, along with its determination as to any conflicts of law involved and its ultimate resolution of the matter. Such determination shall be sent by the JTA to the applicant within thirty calendar days of the date of receipt by JTA of the application. If JTA determines that there are disputed issues of material fact, the JTA shall so advise the applicant in writing, and shall schedule a hearing to be conducted as an administrative hearing hereunder. Such notice shall be sent to the applicant within thirty calendar days of the date of receipt by JTA of the application, and shall contain notice of the date scheduled for the hearing (within sixty calendar days of the date of receipt by JTA of the application), and shall include a request that the applicant advise JTA of any reasonable accommodations that may need to be made for persons protected by the Americans with Disabilities Act. In the event that the applicable calendar day falls on a weekend or JTA holiday, the time period is extended to the next following business day of JTA. The foregoing deadlines for notice and hearing scheduling may be waived in writing by the applicant and the JTA.

(d) In all cases, an applicant for an administrative hearing may request an informal meeting with JTA staff to attempt to settle the matter under administrative review, and JTA shall use reasonable efforts to accommodate such a request, up to one time with respect to a particular application. In the case of denial of Eligibility or suspension for No-Show appeals, a meeting with staff (separate from and not subordinates of the staff members making the original determination) and the applicant shall be conducted prior to the hearing.

### **III. Effect of Orders of Suspension.**

Receipt of an application for administrative hearing by the JTA shall automatically defer the entry of any order of suspension, debarment or fines or penalties, pending final determination by the JTA; provided however that the foregoing shall not apply where the reason for suspension or debarment (or similar penalty) is based upon actual or threatened public safety concerns, including creation of hostile environment for JTA patrons or employees.

### **IV. Conduct of Administrative Hearing.**

(a) JTA shall provide the affected persons or their counsel an opportunity to present to the JTA hearing officer written or oral evidence in opposition to the JTA's action or the refusal to act, or a written statement challenging the grounds upon which the JTA has chosen to justify its action or inaction. The administrative hearing shall be held at the JTA office. As a fact-finding proceeding, each such hearing is non-adversarial and there are no formal pleadings or adverse parties. Any rule or order issued in a case in which an administrative hearing is held is not necessarily based exclusively on the record of the hearing. The Executive Director will appoint a hearing officer or panel (in the case of denial of Eligibility or suspension for No-Show for paratransit, or suspension from any other JTA transit service, a panel shall be appointed) to conduct any hearing held under this section. The hearing officer shall either be a member of the Florida Bar or shall be a State of Florida certified mediator. In the event the Executive Director elects to appoint a panel to conduct the hearing, one member of the panel shall either be a member of the Florida Bar or shall be a State of Florida certified mediator. In the case of denial of Eligibility or suspension for No-Show: (i) all panelists shall be separate from and not subordinates of the staff members making the original determination; (ii) one panelist shall be from the transportation disadvantaged industry, one panelist shall be a behavioral or disability specialist, and one panelist shall be a JTA staff member familiar with the local transit system; and (iii) there need not be a member of the Florida Bar or a State of Florida certified mediator on such a panel.

(b) JTA shall give reasonable notice to affected parties of the action by JTA of its decision or refusal to take action.

(c) JTA shall allow any party to the hearing to appear in person and with counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary and other evidence, to examine and cross-examine witnesses, to present supporting evidence, enter objections, and to rebut the evidence presented against the party.

(d) All hearings shall be open to the public; provided that this shall not apply to hearings involving denial of Eligibility or suspension for No-Show in accordance with privacy laws concerning personal medical information. The hearing officer or panel may eject persons

who fail to remain quiet while others are speaking, exceed their time limit or cause a public disturbance of the peace or in any way impede the progress and purpose of the hearing.

(e) The hearing officer and any panelist is authorized to administer oaths for the hearing. Oral testimony shall be taken only upon oath or affirmation.

(f) Evidence.

(i) JTA administrative hearings are less formal than court proceedings, and the formal rules of evidence that apply to court proceedings do not generally apply. Any reliable, relevant evidence shall be admitted if it is the kind of evidence that reasonable, prudent persons would rely on in the conduct of their affairs. Facts shall be proven through the testimony of witnesses under oath at the hearing and through documents admitted into evidence at the request of a party. Statements made outside the hearing and not under oath (i.e. hearsay evidence) may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding, unless such evidence would be admissible over objection in a civil action. The rules of privilege shall be effective to the same extent that they are recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.

(ii) All exhibits shall be identified as applicant's exhibits, JTA's exhibits, or as joint exhibits and shall be so marked in the order received and made a part of the record.

(iii) Documentary evidence may be received in the form of a photocopy.

(g) The JTA shall by stenographic or electronic means accurately record the testimony and the proceedings. A transcript shall be made and furnished the applicant, upon request, provided that the charges for the transcription are paid in advance by the applicant.

(h) Within thirty calendar days of an administrative hearing, the hearing officer or panel shall issue a written recommendation to the Executive Director, together with a statement of support for such recommendation. The Executive Director may follow the recommendation, or for good cause shown in a written decision, make a determination different from such recommendation, within thirty calendar days of receipt of the written recommendation. The Executive Director's determination shall be final agency action. For purposes of this subsection (h), "good cause shown" is a rigorous standard, which shall mean that the recommendation from the hearing officer or panel is not supported by credible evidence in the record, is plainly inconsistent with law, or results from a hearing which manifestly departs from the requirement to provide meaningful and impartial forum for the presentation of evidence by the applicant for the hearing.

(i) The JTA shall maintain a written record consisting of:

(i) All correspondence;

(ii) Evidence received or considered;

(iii) All written statements by persons and parties;

- (iv) Any decisions overruling objections;
- (v) All matters placed on the record after an ex parte communication; and
- (vi) The record of the proceedings and testimony, including an official transcript if requested and paid for by the applicant.

**V. Appeal of Administrative Hearing Decisions.**

(a) Right of Appeal: JTA's final action shall constitute final agency action. Any person dissatisfied with or aggrieved by a JTA determination on matters presented at an administrative hearing shall have the rights of access to the courts provided by Florida law, and any applicable federal agency, available following exhaustion of administrative remedies.

(b) All persons must comply with the procedures set forth herein before challenging the decision under any other procedure authorized by law, except as otherwise expressly preempted by applicable state or federal law.

**VI. Public Hearings.**

(a) In all circumstances where the JTA is directed by its Board or required by law to conduct a public hearing, other than an administrative hearing as described above, the JTA shall post notice of such hearing on its official website and at its administrative offices, and may publish notice in a newspaper of general circulation in the applicable Metropolitan Statistical Area, if required by law, reasonably in advance of such hearing.

(b) Public hearings that are not administrative hearings shall be held at the offices of the JTA unless otherwise noted in the public notice for such hearing. Hearings shall be conducted by the Executive Director or a JTA hearing officer appointed by the Executive Director, which hearing officer need not be a member of the Florida Bar or an employee of JTA. Members of the public may present information in writing or orally at such hearings, but shall be limited to presentations as determined by the hearing officer but generally of no more than three minutes. The hearing officer may request additional information from persons or organizations (in person or in writing), and may continue the public hearing to another date and time. In the event that additional material relevant to the matters to be heard is requested by the hearing officer and not delivered prior to the meeting, the public hearing shall be continued to give interested parties the opportunity to review the additional material and respond thereto. JTA may also provide for additional material or comments to be provided in writing to the JTA within a reasonable specified time prior to or after the hearing for consideration in the matter being heard. Reasonable requirements of the hearing officer for the conduct of the public hearing shall be observed to permit all interested persons to hear and be heard, including but not limited to use of microphones, identification of speakers by name and address, orderly conduct of observers and presenters during presentations and official dialogue, prohibition on the use of amplified sound or speech except through the systems provided by JTA, and forced removal from the hearing room of persons whose conduct disrupts the rights of others to hear and be heard on the issues before the hearing officer.

(c) The hearing officer (or Executive Director, as the case may be), shall cause either an audio record or transcript to be made of the hearing, and shall maintain a file containing the

written materials submitted. On the request of any interested person, and at such person's expense, JTA shall cause a transcript to be made of a public hearing.

## **VII. PUBLICATION**

This Rule is available online at JTA's website, <http://www.jtafla.com>. Hard copies are available without charge at JTA's offices 100 North Myrtle Avenue, Jacksonville, Florida 32204.