

§ 551.15 Request for Discovery; Informal Mediation.

For purposes of discovery, the board or its executive director, or an administrative law judge designated by the board or its executive director may, if deemed appropriate and proper under the circumstances, authorize the parties to engage in such discovery procedures as are provided for in civil actions in Chapter 1 Article 3 (commencing with Section 2016.010) ~~of Chapter 3~~ of Title 3 4 of Part 4 of the Code of Civil Procedure, excepting the provisions of Chapter 13, Sections 2030.010 through 2030.410 of that code.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

§ 551.17. Conversion of Informal Mediation to Petition; Confidentiality.

(a) The board or its executive director, upon the request of either party, or upon its own motion, may convert an informal mediation to a petition under section 3050(c) of the Vehicle Code. The respondent shall be an applicant for or holder of a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative.

(b) Within 10 days of approval to convert the proceeding, the petitioner shall file and serve a petition with the board which substantially complies with Article 2, section 555 *et seq.*

(c) Upon receipt of the petition, a copy shall be transmitted by the executive director of the board to each member of the board for consideration in accordance with Section 557 herein hereof.

(d) If the filing fee was paid by both parties in the informal mediation proceeding, no additional filing fee is required for conversion to a petition.

(e) In accordance with Section 558 herein hereof, the respondent shall file with the executive director of the board a written answer to the petition.

(f) Chapter 6 (commencing with Section 3000) of Division 2 of the Vehicle Code, and Chapter 2 (commencing with Section 550) of Division 1 of Title 13 of the California Code of Regulations shall apply.

(g) Notwithstanding any other provision of law, a communication made in informal mediation is protected to the following extent:

(1) Anything said, any admission made, and any document prepared in the course of, or pursuant to, informal mediation is a confidential communication, and a party to the informal mediation has a privilege to refuse to disclose and to prevent another from disclosing the communication, whether in an adjudicative proceeding, civil action, or other proceeding. This subsection does not limit the admissibility of evidence if all parties to the proceeding consent.

(2) No reference to the informal mediation proceedings, the evidence produced, or any other aspect of the informal mediation may be made in an adjudicative proceeding or civil action, whether as affirmative evidence, by way of impeachment, or for any other purpose.

(3) No informal mediation administrative law judge is competent to testify in a subsequent administrative or civil proceeding as to any statement, conduct, decision, or order occurring at, or in conjunction with, the informal mediation.

(4) Evidence otherwise admissible outside of informal mediation is not inadmissible or

protected from disclosure solely by reason of its introduction or use in informal mediation.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code; and Sections 11420.30 and 11470.50, Government Code.

§ 556. Form and Filing of Petition.

The form of the petition shall conform with the provisions of Article 6 herein ~~hereof~~. The petition shall be filed with the executive director of the board.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

§ 558. Answer-Time of Filing; Form and Content.

(a) The respondent shall file with the executive director of the board a written answer to the petition, in the form prescribed by Article 6 herein ~~hereof~~. The answer shall be filed within 30 days of the date of service of the petition on the respondent.

(b) The answer shall be responsive to the allegations of the petition and shall set forth in clear and concise language the factual contentions of the respondent with respect to the matter referred to in the petition.

(c) The respondent may submit, as exhibits to the answer, photographic, documentary or similar physical evidence relevant to the matter in support of the answer with an appropriate description thereof in the answer sufficient to identify them and to explain their relevancy.

(d) The respondent shall set forth in the answer his mailing address and telephone number and the name, mailing address and telephone number of his attorney or authorized agent, if any. All correspondence with respondent and notices to respondent shall thereafter be addressed to said address, if he appears in person, or to the address of his attorney or agent, if he is represented an attorney or agent. Respondent shall promptly give the executive director and petitioner written notice by mail of all subsequent changes of address or telephone number.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

§ 561. Additional Evidence and Argument in Support of Petition.

(a) A party wishing to present to the board evidence and/or arguments in addition to that submitted in accordance with Section 555 herein ~~hereof~~ may, prior to the first consideration of the petition by the board, advise the executive director in writing of his desire to do so by filing with the board not later than ten days before the date set for the first consideration of the petition a request to present such additional evidence and/or arguments.

(b) The request to present additional evidence and/or argument filed pursuant to Section 561(a) herein ~~hereof~~ shall contain, as applicable:

(1) The names and addresses of witnesses together with a brief statement summarizing their expected testimony;

(2) Copies or reproduction of all documentary or physical evidence, in addition to that

already furnished pursuant to Section 555(e) ~~herein hereof~~;

(3) A summary of the subject or subjects expected to be covered by argument;

(4) A statement of the reason or reasons why it is desirable for the board to grant the request.

(c) The board may grant a request filed pursuant to Section 561(a) ~~herein hereof~~ if it determines that its first consideration of the petition would be assisted by such evidence and more argument.

(d) Upon the filing of the request pursuant to Section 561(a) ~~herein hereof~~, the board shall, prior to proceeding with the first consideration of the matter decide whether to grant the request. If the request is granted, the board shall:

(1) Set a time and place for the hearing where the oral or documentary or physical evidence may be heard and presented. Hearings set pursuant to this provision shall be conducted in accordance with Sections 589, 590 and 592 ~~herein hereof~~;

(2) Set the time and place where the argument shall be heard by the board.

(e) The Board shall in no event proceed with the first consideration of a petition unless it has reviewed the additional evidence and/or argument submitted pursuant to the provisions of Section 561(d) ~~herein hereof~~.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

§ 586. Filing of Protest, Schedules of Compensation for Preparation and Delivery Obligations, Warranty Reimbursement Schedules or Formulas, and Franchisor Incentive Program Reimbursement Pursuant to Vehicle Code ~~Sections~~ **3064, 3065, 3065.1, 3074, 3075, and 3076 V.C.**

(a) Protests filed with the board under any of these sections of the Vehicle Code shall be filed as follows:

(1) The protest shall set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.

(2) The franchisee may submit, as exhibits to the protest, photographic, documentary or similar physical evidence relevant to the matter in support of the protest with an appropriate description thereof in the protest sufficient to identify them and to explain their relevancy.

(3) The franchisee shall set forth in the protest its mailing address and telephone number and the name, mailing address and telephone number of the franchisee's attorney or authorized agent, if any. All correspondence with the franchisee and notices to the franchisee shall thereafter be addressed to said address, if it represents itself, or to the address of its attorney or agency agent, if it is represented by an attorney or agent.

(4) The franchisee Franchisee shall indicate either that it does or does not desire to appear before the board.

(b) Schedules of compensation for preparation and delivery obligations and warranty reimbursement schedules or formulas shall be filed by the ~~franchiser~~ franchisor with the board no later than 30 days after the date the license is issued or within 30 days after the date of renewal of the license if no schedules or formulas ~~has~~ have previously been filed with the board.

(c) The ~~franchiser~~ franchisor shall file with the board any addition, deletion, change or modification to the schedules of compensation or reimbursement schedules or formulas on file with the board on or before the date such addition, deletion, change or modification becomes effective.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050(a) and (d), 3064, 3065, 3065.1, 3074, 3075, and 3076, Vehicle Code.