

## HOW TDLR HANDLES CONSUMER COMPLAINTS

<https://www.tdlr.texas.gov/complaints/>

### Complaints and Enforcement



#### File a Complaint

Inform TDLR of unlicensed activity or violations of the law and rules

[FILE COMPLAINT](#)



#### File a Skimmer Report

Inform TDLR of a location with suspected skimmers.

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#### Complaint Statistics

Industry-specific stats on TDLR complaints and formal case outcomes

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### Overview

Consumers, other members of the public, and TDLR employees can file complaints against TDLR licensees for a variety of reasons, and TDLR evaluates all complaints that are filed. Complaints can be made anonymously.

### Complaints By Members of The Public

All complaints are referred to the TDLR Enforcement Division's Intake Section, where a legal assistant will analyze whether TDLR has legal jurisdiction in the matter and whether there is reason to believe that a violation may have occurred.

The legal assistant may ask for additional information from the complainant during this evaluation if the complaint did not contain enough information to determine whether a violation may have occurred. If TDLR does not receive adequate information, a case may not be opened.

If it appears that a violation may have occurred, TDLR will open a case and assign it to an investigator. TDLR usually will send a letter to the licensee, notifying them that the agency has started an investigation. In certain types of cases, TDLR may not notify licensees that we have opened a case. We will also send a letter to the person who filed the complaint.

The investigator will interview the person who made the complaint, as well as the person the complaint is against, as well as any other possible witnesses. The person the complaint is against is also known as the "respondent." The investigator will gather copies of documents that might be useful in the case. The investigator also might visit the business or the place where the alleged violation occurred.

The investigator will write a detailed report about facts in the case and submit it to the TDLR prosecuting attorney, who will determine the appropriate case resolution. (Please note that, even though we use the word "prosecuting," this is an administrative case and not a criminal case.)

### Complaints By TDLR Employees

In the course of their job responsibilities, TDLR employees often file complaints against licensees and those who should have licenses but do not. The standard intake and investigation processes usually apply, but certain categories of complaints follow abbreviated procedures in the interests of public health and safety.

For example, TDLR inspections of cosmetology salons and barber shops can result in the discovery of serious violations. In those cases, an inspector would file a complaint that would go directly to a TDLR prosecutor, who would take appropriate steps to resolve the case.

## Resolving Complaints

Prosecutors can resolve complaints in three ways once they have evaluated a case:

- Issue a closing letter saying there is not enough evidence to support a formal enforcement action.
- Issue a warning letter saying that a violation occurred and recommending that the licensee come into compliance with the applicable law, but that no further action will be taken.
- Issue a notice of alleged violation (NOAV) that details violations of law or rule by the licensee or person who should be licensed. The NOAV generally seeks administrative penalties and lists possible sanctions against the licensee.

An administrative penalty is a monetary fine paid to the State of Texas. A sanction against a license could include license suspension, probation or reprimand and could include revocation. Each TDLR program has specific violations, administrative penalties and sanctions that is reflected in the TDLR Enforcement Plan. The Enforcement Plans are available at: <https://www.tdlr.texas.gov/enforcement.htm>.

Prosecutors consider these factors when determining the level of sanction and the penalty amount:

- The severity or seriousness of the violation
- Whether the violation was willful or intentional
- Whether the respondent acted in good faith to avoid or mitigate the violation or to correct the violation after it became apparent
- Whether the respondent has engaged in similar violations in the past
- What level of penalty would deter future violations, both by the respondent and the industry as a whole
- Any other matter that justice may require.

When the prosecutor sends the NOAV, they include a settlement offer for the respondent. If the respondent agrees to the terms of the settlement, the TDLR Executive Director will issue an Agreed Order that typically requires the respondent to do certain things, such as paying an administrative penalty, paying restitution or making repairs for the consumer, completing additional education or providing required documentation to TDLR. The agency then monitors the respondent's efforts to comply with the agreed order until the requirements are completed.

If the respondent does not agree to a settlement offer and does not request a hearing in a timely manner, the TDLR Executive Director can issue a Default Order against the respondent that includes penalties or sanctions, without first conducting a hearing.

## Hearings

The respondent has 20 days after receiving an NOAV to request a hearing in front of the State Office of Administrative Hearings (SOAH). The case is heard by an administrative law judge, who listens to both sides and then submits a Proposal for Decision (PFD), which includes their proposed findings of fact and conclusions of law, as well as a recommended outcome for the case. The PFD is not a final decision in the case.

The Texas Commission of Licensing and Regulation reviews the PFD during a public meeting and, after hearing from TDLR prosecutors and the respondent, decides whether to accept the PFD as written or whether commissioners would prefer to make amendments. Once the Commission has made a decision, it issues a Final Order.

Once the Final Order has been issued, the respondent can file a motion for rehearing if they think that either the Executive Director's order or the Commission Order has errors. The motion must specifically identify the errors in the Order. If the Commission denies the motion for rehearing, the respondent can file a request for judicial review with the Travis County District Court. TDLR is represented in district court by the Texas Attorney General's office.