

Using Administrative Law to Protect Your Business

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Small business owners can face big-time headaches from a myriad of sources. Among the most worrisome can be accusations brought by a professional licensing board, regulatory agency or an administrative board, because administrative accusations can involve the denial, suspension or revocation of business or professional licenses.

An attorney experienced in administrative law can assist business owners and licensed professionals in a number of ways, such as responding to agency investigations or queries; assisting with compliance matters; negotiating with the agency or their representatives; defending clients who have been served with accusations and petitioning for reinstatement of licenses.

Administrative law is different from other law in that the cases are tried in administrative courts or the Office of Administrative Hearings in front of administrative panels, hearing officers or administrative law judges. The rules and procedures governing administrative matters are quite different from the rules found in the civil or criminal courts. Appeals of administrative actions require the a party seeking a reversal to file a Petition for a Writ of Mandamus to the superior court or a United States District Court. And, agencies as well as licensees, are entitled to appeal the administrative decision.

If all this sounds a bit confusing, note that even experienced attorneys can get lost with the procedural complexities of Administrative Law. That is why it is usually best to retain the services of an attorney who has had extensive practice in the administrative arena as the procedures and standards applied often differ from general civil litigation. An experienced administrative attorney will likely understand what issues are of prime concern to the agency and how best to present your case. Unlike a civil trial, where the parties do battle before a judge and jury, administrative attorneys should have an understanding of an agency's needs and should be able to present a client's case in non-confrontational terms, if possible. Experience with an agency's procedures is the first step to successful representation.

Of course, not every case gets settled or disposed of easily. That is why administrative attorneys should also be able to draft and argue Writs of Mandamus before the Superior Court, which is the mechanism for the review of an administrative decision. The provisions in the Code of Civil Procedure which pertain to administrative writs are highly technical and require an attorney skilled with the nuances of the law.

So, what should you do if you are contacted by an agency or investigator? Get an attorney experienced in administrative law. Agency procedures and administrative law are quite different from those procedures you may have encountered in a civil court. That is why it is important to have an attorney who has had experience not only dealing with administrative agencies, but preferably an attorney who has represented administrative agencies or served as a member of an agency's board. An attorney who has had this sort of experience will know how to present information an agency may request without compromising your position or rights. Remember, suspension or revocation of your license may result in losing your business.

