



## HEARING NOTICES 101: IT'S IN THE DETAILS

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Hearing notices are simple, right? Just include the date, time, and place and you're good to go! Not so fast...

Do you remember the five W's: Who, What, Where, When, and Why? A hearing notice that does not include all of this information could result in an unenforceable disciplinary action, including the inability to impose fines or reimbursement assessments for common area damage.

*Civil Code* §5855(b) requires the hearing notice to include:

1. The **date, time, and place** of the hearing; AND
2. The **nature of the alleged violation** for which the member may be disciplined; OR
3. The **nature of the damage to common area** and facilities for which a monetary charge may be imposed; AND
4. A statement that the **member has the right to attend** and may address the Board at the hearing.

Adequately describing the **nature of the alleged violation** includes:

1. The member's **specific conduct** which violates the governing documents; AND
2. The **specific provision(s) of the governing documents** which the conduct violates.

For example:

*"The Association received a report that on [date], you [conduct]. This conduct violates [provision], which states..."*

Adequately describing the **nature of the damage to common area** and facilities includes:

1. The **specific damage** caused by the member; AND
2. The **specific provision(s) of the governing documents** which subjects the member to monetary charges for causing that damage.

For example:

*"On [date], you [conduct which damaged common area]. This conduct subjects to you a monetary charge for the damage caused pursuant to [provision] which states..."*

### Further Recommendations

List all disciplinary actions that may be imposed after the hearing, such as monetary penalties (fines), reimbursement assessments, suspension of use of common area facilities, internal dispute resolution (IDR), alternative dispute resolution (ADR), and legal action including injunctive relief, lien, and foreclosure. Consult with legal counsel and check the governing documents to confirm which disciplinary actions are available for this violation at a particular association.

Remember the five Ws: who, what, where, when, and why. Be sure to include the date of the reported violation that is the subject of the hearing. Then, add information about the rule or policy their conduct has violated and the kinds of discipline to which they are subject.

If any required information is missing and the member challenges the enforcement or disciplinary action, the action could be reversed. Consult with counsel to confirm your hearing notice is compliant and appropriate for the particular violation and community. In some instances, it is appropriate for legal counsel to prepare a hearing notice.