

Rule 1. Superior Court Review of Agency Orders or Decisions

(a) SCOPE AND PURPOSE.

(1) *Scope.* This rule governs the procedure for Superior Court review of administrative agency orders or decisions in cases subject to review in the Superior Court except those addressed in Agency Review Rule 2.

(2) *Purpose.* This rule should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every review.

(b) PETITION FOR REVIEW.

(1) *In General.* Review of the administrative order or decision is commenced by filing a petition for review with the clerk of the Civil Division. If their interests make joinder practicable, two or more persons may join in a petition for review.

(2) *Time for Filing.* Unless an applicable statute provides a different time frame, the petition for review must be filed within 30 days after notice is given, in conformance with the rules or regulations of the agency, of the order or decision sought to be reviewed.

(3) *Contents of Petition for Review.* The petition for review must:

(A) state the names of each party seeking review—using such terms as “et al.,” “petitioners,” or “respondents” does not effectively name the parties;

(B) state the names of the respondents, including the agency;

(C) specify the order or decision to be reviewed and include a copy of the order or decision; and

(D) state the nature of the relief requested.

(c) **SERVICE OF THE PETITION.** The petitioner must serve a copy of the petition, as provided in Civil Rule 5, on the agency that conducted the proceeding, the Office of the Attorney General for the District of Columbia, and all other parties to the agency proceeding.

(d) STAY.

(1) *Initial Motion Before Agency.* A petitioner must ordinarily move first before the agency for a stay pending review of its order or decision.

(2) *Motion in the Superior Court.* A motion for stay may be made to this court.

(A) *Reason for Filing in Superior Court.* The motion must:

(i) show that moving first before the agency would be impracticable; or

(ii) state that, a motion having been made, the agency denied the motion or failed to afford the relief requested and state any reasons given by the agency for its action.

(B) *Other Content.* The motion must also include:

(i) the reasons for granting the relief requested and the facts relied on;

(ii) originals or copies of affidavits or other sworn statements supporting disputed facts; and

(iii) relevant parts of the record, including a copy of the order or decision sought to be stayed.

(3) *Bond.* The court may condition relief on the filing of a bond or other appropriate security.

(e) INTERVENTION.

(1) *Party to Agency Proceeding.* A party to the agency proceeding who wants to intervene in this court must file a notice of intention to intervene and serve the notice on

all parties to the proceeding. The party will then be deemed an intervenor without the necessity of filing a motion.

(2) *Other Persons.* Any other person who wants to intervene must file and serve on all parties a motion that:

(A) contains a concise statement of the interests of the moving party and the grounds for intervention; and

(B) states on which side the party seeks to intervene.

(3) *Time for Filing.* The notice of intention or motion for leave to intervene must be filed within 30 days after the date on which the petition for review is filed unless the court extends this time for good cause.

(f) PROCEDURE FOLLOWING PETITION.

(1) *Agency Record.* Within 60 days after being served with the petition for review, the agency must certify and file the agency record, including all of the original papers comprising that record. The pages of the agency record must be numbered sequentially and the accompanying documents listed in an index. The agency must notify the petitioner of the date on which the record is filed.

(2) *Scheduling Conference.* When the petition is filed, the clerk must set the case for an initial scheduling conference before the assigned judge. At the scheduling conference, the assigned judge must:

(A) establish a briefing schedule for the parties; and

(B) schedule a status hearing for a date after the briefing period concludes.

(3) *Requirements for Briefs.* Briefs must conform to the requirements of Civil Rule 12-1(d) and must include specific references to the pages of the agency record that support the averments relied upon by the parties.

(g) RECORD ON REVIEW.

(1) *Composition of the Record.* The record on review consists of:

(A) the order involved;

(B) any findings or report on which it is based;

(C) the original papers and exhibits filed with the agency, or a legible certified copy of the papers and exhibits; and

(D) a certified copy of the transcript of any testimony before the agency, or, if no transcript is available, a certified narrative statement of relevant proceedings and evidence.

(2) *Omissions From or Misstatements in the Record.* The parties may at any time, by stipulation, supply any omission from the record or correct a misstatement, or the court may so direct. If necessary, the court may direct that a supplemental record be prepared and filed.

(h) MOTIONS FOR RECONSIDERATION.

(1) *Time.* Unless the time is shortened or extended by order, a motion for reconsideration may be filed within 21 days after entry of judgment.

(2) *Contents.* The motion must state with particularity each point of law or fact that the movant believes the court has overlooked or misapprehended and must argue in support of the motion. Oral argument in support of the motion is not permitted.

(3) *Response.* Unless the court requests, a party may not file a response to a motion for reconsideration or a reply to a response.

(4) *Consolidation*. In a case where two or more persons have joined in a petition for review, a motion for reconsideration filed by one party will not be deemed filed by any other party.

(5) *Length*. Unless the court permits otherwise, a motion for reconsideration, or a response if requested by the court, must not exceed 15 pages.

(i) APPLICABILITY OF CERTAIN CIVIL RULES. Except where inconsistent with a statute or with this rule, the following Superior Court Rules of Civil Procedure apply to proceedings under this rule: 5 (Service and Filing Pleadings and Other Papers); 5-I (Proof of Service); 5-III (Sealed or Confidential Documents); 6 (Computing and Extending Time; Time for Motion Papers); 7-I (Stipulations); 7.1 (Disclosure Statement); 9-I (Verifications, Affidavits, and Declarations); 10 (Form of Pleadings); 10-I (Pleadings: Stationery and Locational Information); 11 (Signing Pleadings, Motions, and Other Papers; Representations to Court; Sanctions); 12-I (Motions Practice); 54-II (Waiver of Costs, Fees, or Security); 62 (Stay of Proceedings to Enforce a Judgment); 63-I (Bias or Prejudice of a Judge or Magistrate Judge); 79 (Records Kept by the Clerk); 79-I (Copies and Custody of Filed Papers); 82 (Jurisdiction Unaffected); 83 (Directives by Judge or Magistrate Judge); 86 (Effective Dates); 101 (Appearance and Withdrawal of Attorneys); and 202 (Fees).

COMMENT TO 2019 AMENDMENT

This rule was amended consistent with the stylistic changes to the civil rules. The substance of this rule has also been modified consistent with D.C. App. R. 15-20, which address the District of Columbia Court of Appeals' review of administrative agency orders.

This rule has been expanded to cover review of agency orders or decisions in all cases reviewable by the Superior Court (other than those addressed in Agency Review Rule 2). See *In re A.T.*, 10 A.3d 127 (D.C. 2010) (explaining that the Superior Court has jurisdiction to directly review orders of District of Columbia agencies in noncontested cases).

Subsection (b)(2) treats notice of the order or decision as service within the meaning of Civil Rule 6(d).

Former section (g), which addressed the standard of review, has been deleted as unnecessary. The standard of review can be found in the relevant statutes (such as D.C. Code § 2-510(a) (2016 Repl.)) and case law.

Section (h) is new. It is modeled on D.C. App. R. 40, although the time to file a motion for reconsideration of a final order is 21 instead of 14 days because of the nature of many Superior Court agency review proceedings and the high percentage of self-represented litigants.

Section (i), which addresses the applicability of other civil rules, has been amended to include additional rules.

Finally, while the form petition is no longer appended to the rule, it is available in the clerk's office and on the D.C. Courts' website.

Rule 2. Appeals from the Traffic Adjudication Appeals Board to the Superior Court Under D.C. Code § 50-2304.05

(a) SCOPE AND PURPOSE.

(1) *Scope.* This rule governs the procedure for appeals to the Superior Court from a decision by the Traffic Adjudication Appeals Board, except for a decision to suspend or revoke a driver's license or privilege to drive, which is reviewable by the District of Columbia Court of Appeals.

(2) *Purpose.* This rule should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every review.

(b) APPLICATION FOR ALLOWANCE OF APPEAL.

(1) *In General.* An original and three copies of an application for the allowance of an appeal must be filed with the clerk of the Civil Division.

(2) *Time for Filing.* The application must be filed within 30 days of the effective date of the decision by the Traffic Adjudication Appeals Board.

(3) *Form and Content.* The application must be made on the form maintained by the clerk's office or a form that is substantially similar in format and content.

(4) *Service.* The clerk must serve a copy of the application:

(A) on the Office of the Attorney General for the District of Columbia; and

(B) on the Traffic Adjudication Appeals Board in accordance with D.C. Code § 2-510 (2016 Repl.).

(c) **RESPONSE TO THE APPLICATION.** The District of Columbia may file a response within 14 days after service of the application.

(d) REVIEWING THE APPLICATION.

(1) *Ordering the Record or a Response.* The court may order that:

(A) the Traffic Adjudication Appeals Board transmit to the clerk a certified copy of the original record and any exhibits within 21 days after receiving the court's order; or

(B) the District of Columbia file a response.

(2) *Effect of Denial.* Denial of the application affirms the decision of the Traffic Adjudication Appeals Board and is a final order of the Superior Court.

(3) *Notice of Decision on Application.*

(A) *Application Denied.* If the court denies the application, the court must issue an order stating the reason for the denial and must send a copy of the order to the applicant, the Traffic Adjudication Appeals Board, and the Office of the Attorney General for the District of Columbia.

(B) *Application Granted.* If the court grants the application, the court must send a copy of the notice of the allowance of appeal to the applicant, the Traffic Adjudication Appeals Board, and the Attorney General of the District of Columbia.

(e) PROCEDURE AFTER APPLICATION GRANTED.

(1) *Appeals Board Record.* If the court grants the application and the record has not previously been filed, the Traffic Adjudication Appeals Board must transmit to the clerk a certified copy of the original record and any exhibits within 21 days after receiving the notice of the allowance of appeal.

(2) *Additional Submissions by Court Order.*

(A) *In General.* After granting the application, the court may order:

(i) that the Attorney General of the District of Columbia file a response, if no response in opposition to the application was filed; or

(ii) that either party file a more detailed submission.

(B) *Leave of Court Required*. No further submissions are permitted without leave of court.

(C) *Service*. Any additional submissions must be filed within 14 days of the court's order or such other time as the court may specify. Any filing after the initial application must be served on the opposing party in accordance with Civil Rule 5.

(f) DETERMINING APPEAL.

(1) *Oral Argument*. The court may order oral argument.

(2) *Record for Appeal*. The court must determine the appeal based exclusively on:

(A) a certified copy of the original record, including a certified copy of any order of the Traffic Adjudication Appeals Board, the original Notice of Infraction, and any exhibits previously filed; and

(B) a certified copy of the transcript of any testimony before the agency if a party obtained a transcript, or, if no transcript is available, a certified narrative statement by the applicant of relevant proceedings and evidence any findings or report on which it is based.

(3) *Written Decision Required*. The court's decision must be in writing and must include a statement of reasons. The written decision must be sent to the applicant, the Traffic Adjudication Appeals Board, and the Office of the Attorney General for the District of Columbia.

COMMENT TO 2019 AMENDMENT

This rule was amended consistent with the stylistic changes to the civil rules. D.C. Code citations were also updated. The manner of service was amended to be consistent with requirements in D.C. Code § 2-510 (2016 Repl.). In addition, a statement of the standard of review has been deleted because the standard of review can be found in the relevant statutes and case law. See D.C. Code § 50-2304.05 (2014 Repl.) (providing that the manner of and standards for appeals to the Superior Court are governed by D.C. Code § 2-510).

COMMENT

It is contemplated that the Traffic Adjudication Appeals Board record shall include the Board's opinion, any findings of fact and conclusions of law made by the hearing examiner, any transcript or tape recording of the fact-finding proceeding and any other pertinent documents.