

District of Columbia Court of Appeals

Historic Courthouse
430 E Street, NW
Washington, DC 20001
(202) 879-2700

Representing Yourself in an Agency Appeal.

INTRODUCTION

This guide is for people who don't have a lawyer and are appealing decisions that were made by a D.C. Administrative Agency or by the Office of Administrative Hearings – sometimes called “OAH.” Don't use this guide if your case is a Civil case, a Criminal case, a landlord-tenant case, a Family Court case, or a Small Claims case.

An appeal is hard work, it can take a lot of time, and it can be very complicated. So it's important to pay attention to the Court's Rules. The Rules control the whole appeal process and if you don't follow them you can ruin your own appeal. And don't expect special treatment just because you're representing yourself, *everyone* has to follow the Rules. This guide won't give you legal advice, but it will help you learn what you need to do to get your case in front of the Court. The Court of Appeals staff will also help you as much as they can, but they can't give you legal advice either.

At the end of this guide there is a list of the offices where you can file things or get information. There is also a list of what different legal terms mean and copies of all the forms mentioned in this guide.

BUT REMEMBER, THE COURT'S RULES ARE THE FINAL WORD AND YOU SHOULD ALWAYS FOLLOW THEM, NO MATTER WHAT THIS GUIDE SAYS.

THE BASIC STEPS

Step 1. How to File an Appeal.

- A. When to Appeal?** Most of the time you have to file your appeal within 30 days after you've been notified of the agency's or OAH's final decision. But some agencies let you have more time, and some give you less time, so be careful. Read the decision carefully, it should tell you at the end how much time you have to appeal and where to file it (some agency appeals have to go the Superior Court first).
1. Sometimes one of the other parties, like the agency or your employer, is the one filing the appeal. If that happens then you can only participate in the appeal if you "intervene." To do that, you have 30 days from the date the agency or the employer filed their petition to file your "Notice of Intention to Intervene."
- B. What to File?** One original and 6 copies of a Petition for Review are what you file. The Clerk's office at the Court of Appeals has a blank form, like Form 5 at the end of this guide, that you can use. You don't have to use this form, but if you don't, then be sure that your Petition has the names of all the people who are bringing the appeal and that it says which order or decision that you're appealing. You should also attach a copy of the order you want the Court to review. Once you file this petition you will be called the "Petitioner" and the agency will be called the "Respondent."
1. Remember if your case is one of those where someone else filed the appeal, then you file a "Notice of Intention to Intervene" and that makes you a party to the appeal. You will be called the "Intervenor." Your employer may also file a Notice if you filed the petition, and if that happens, they will be the "Intervenor."
- C. Where to Appeal.** You file your Petition or Notice of Intention to Intervene in the Clerk's office at the Court of Appeals, not at the agency or OAH.
- D. How Much?** It costs \$100 to file the Petition for Review, but it doesn't cost anything to intervene. If you can't afford this, you can file a Motion to Proceed on Appeal *In Forma Pauperis* in the Clerk's office.
1. You have to file this motion at the same time you file your Petition for

Review and it is very important that you file both of them with a Financial Information Form.

- a. Form 7a is a sample Motion to Proceed on Appeal *In Forma Pauperis*.
- b. Form 7b is a sample Financial Information Form.

Step 2. The Record.

- A. The record is made up of all of the papers and exhibits that were filed in the agency, and any orders or decisions that the agency issued (including the order you're appealing). It might also have a transcript of any hearings. A transcript is a word-for-word copy of everything that was said at a hearing, but transcripts are not always made in agency cases.
- B. The record is what the Court of Appeals looks at to see what happened in the agency case, and you will need to use it when you write your brief.
- C. You don't have to do anything to get the record ready. The agency or OAH has to send the record to the Court of Appeals within 60 days after it gets the Petition for Review from the Clerk. You may look at the record in the Clerk's office.

Step 3. Briefs.

- D. After the record is complete, the Court of Appeals will issue an order telling you when to file your brief. You will file one original and 3 copies of your brief at the Clerk's office at the Court of Appeals. You also have to send a copy to the agency and to any intervenors.
- E. Your brief can't be more than 50 pages long.
- F. After you file your brief, the respondent and the intervenor get 30 days to file a brief and you can file a reply brief, if you want, within 21 more days.

Step 4. Argument.

- A. Once the briefs are all filed, the Court of Appeals will let you know if it wants to hear you make an argument in person. If it does, it will put your case on

what is called the Regular Calendar and tell you when the argument is scheduled. If the Court of Appeals does not want to hear an argument in person, it will put your case on the Summary Calendar.

- B. If your case is on the Summary Calendar and you want to make a personal presentation, you have to file a motion in the Court of Appeals asking for permission to argue. You have to file that motion within 10 days after you were told your case will be on the Summary Calendar.

Step 5. Decisions.

- A. After the Court of Appeals reads everything and hears any argument, it will issue an opinion or order which decides if you win or lose. If you lose and you think the Court of Appeals made a mistake, you have three choices:
 - 1. You can file a petition for rehearing at the Court of Appeals within 14 days after the Court makes its decision. The petition goes back to the same judges who heard your case and you have to explain to them why you think they were wrong. This petition can't be longer than 10 pages.
 - 2. You can file a petition for rehearing en banc at the Court of Appeals within 14 days after the Court makes its decision. This petition goes to *all* of the judges on the Court and asks them to hear your case all over again from the beginning. There's a 10 page limit for this petition too.
 - A. You can file a petition for rehearing and a petition for rehearing en banc, but you have to file them together you can't wait to see if one type of petition is denied and then decide you're going to file the other type. Also, that combination petition still can't be more than 10 pages long.
 - 3. You can file a petition for writ of *certiorari* at the United States Supreme Court within 90 days after the Court of Appeals makes its decision. This petition asks the Supreme Court to review the Court of Appeals' decision. If you file this petition, the Court of Appeals' Rules don't apply anymore and you must follow the Rules of the U.S. Supreme Court.

IMPORTANT TIPS

1. Most of the time, you can't file a Petition for someone else like your spouse or a friend, only a lawyer can do that.
2. You might not be able to appeal the agency decision right away. If the agency has its own inside appeal process – and lots of them do – then you have to go through all of them before you can come to the Court of Appeals.
3. If you file a Petition don't think that means the person you've been ordered to pay can't start trying to collect or that you don't have to obey any other part of the agency's order. To stop the person from trying to collect or to protect yourself from having to do something you don't think you should have been ordered to do in the first place, you need to file a Motion for Stay Pending Appeal.
4. You have to sign everything you file with the Court and put your address and phone number on it. You also have to keep the Court up to date on your address and phone number, let it know if you move or they change.
5. You have to send a copy of anything you file to the respondents and the intervenors. You can do this by mail, by a private delivery service, by bringing it to them personally, or by faxing it to them if you both agree that faxing is ok. You cannot fax anything to the Court of Appeals. You also have to attach a certificate of service to the filing. That's a paper that tells the court you have sent copies to the respondents and intervenors and it says when this happened. It's very important to include.

FORMS

You can get free copies of any forms listed in this guide at the Public Office of the Clerk of the Court of Appeals in the Historic Courthouse at 430 Indiana Avenue, NW, Washington, DC 20001. The Public Office is on the First Floor, Room 115, and the phone number is (202) 879-2700. You can also get them online at www.dcappeals.gov.

GLOSSARY – Here is what some of the legal terms in this guide mean.

Brief - Your brief is a legal argument telling the Court why the agency's decision was wrong or why it was right.

Certificate of Service – this tells the Court how you sent the other parties a copy of a motion or brief and when you did it. Remember you have to do this. You can't file something with the Court and not give everyone else a copy. They have to do the same with you.

Contested Case – this is the only type of case where you can appeal to the Court of Appeals. It means it's a case which was like a trial, where an administrative judge heard testimony and looked at evidence. Cases from the Office of Administrative Hearings, OAH, are contested cases.

Dismiss or dismissed – means your case has been kicked out of court, usually because the Court doesn't have the power to hear the case (maybe it wasn't a contested case) or you did something wrong, like filing your petition too late.

Exhaustion of remedies – this means that you have gone through all of the agency's own appeal processes before you filed your Petition for Review.

Final order – is a decision which ends the whole case against everyone and comes after you exhausted all of your remedies in the agency. There's a law that says the Court of Appeals can only review final orders in contested cases.

Intervenor – is somebody who was a party in the agency case but isn't the one who filed the Petition for Review.

Judgment – is a final order that tells one person to pay another person some money or to do something specific.

Motion – this is what you file when you want to ask the court to do something.

Opinion – this is a written explanation from the Court that says why you won or lost your appeal.

Opposition or response – is how you answer a motion.

Party – anybody who participated in the case in the agency case.

Petitioner – is the party who filed the Petition for Review.

Record – is everything in the agency case file and any transcripts that are prepared.

Regular Calendar – a list of cases that the Court of Appeals wants to hear oral argument on.

Service – this means you have made sure your opponent has been sent or given a copy of anything you file in the court.

Summary Calendar – is a list of the cases that the Court of Appeals will not hear oral argument on.