

District of Columbia Administrative Procedure Act
D.C. Official Code § 2-509

District of Columbia Official Code 2001 Edition
Division I. Government of District.
Title 2. Government Administration.
Chapter 5. Administrative Procedure.
Subchapter I. Administrative Procedure.

§ 2-509. Contested cases.

(a) In any contested case, all parties thereto shall be given reasonable notice of the afforded hearing by the Mayor or the agency, as the case may be. The notice shall state the time, place, and issues involved, but if, by reason of the nature of the proceeding, the Mayor or the agency determines that the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect thereto. The notice shall also state that if a party or witness is deaf, or because of a hearing impediment cannot readily understand or communicate the spoken English language, the party or witness may apply to the agency for the appointment of a qualified interpreter. Unless otherwise required by law, other than this subchapter, any contested case may be disposed of by stipulation, agreed settlement, consent order, or default.

(b) In contested cases, except as may otherwise be provided by law, other than this subchapter, the proponent of a rule or order shall have the burden of proof. Any oral and any documentary evidence may be received, but the Mayor and every agency shall exclude irrelevant, immaterial, and unduly repetitious evidence. Every party shall have the right to present in person or by counsel his case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Where any decision of the Mayor or any agency in a contested case rests on official notice of a material fact not appearing in the evidence in the record, any party to such case shall on timely request be afforded an opportunity to show the contrary.

(c) The Mayor or the agency shall maintain an official record in each contested case, to include testimony and exhibits, but it shall not be necessary to make any transcription unless a copy of such record is timely requested by any party to such case, or transcription is required by law, other than this subchapter. The testimony and exhibits, together with all papers and requests filed in the proceeding, and all material facts not appearing in the evidence but with respect to which official notice is taken, shall constitute the exclusive record for order or decision. No sanction shall be imposed or rule or order or decision be issued except upon consideration of such exclusive record, or such lesser portions thereof as may be agreed upon by all the parties to such case. The cost incidental to the preparation of a copy or copies of a record or portion thereof shall be borne equally by all parties requesting the copy or copies.

(d) Whenever in a contested case a majority of those who are to render the final order or decision did not personally hear the evidence, no order or decision adverse to a party to the case (other than the Mayor or an agency) shall be made until a proposed order or decision, including findings of fact and conclusions of law, has been served upon the parties and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of those who are to render the order or decision, who, in such case, shall personally consider such portions of the exclusive record, as provided in subsection (c) of this section, as may be designated by any party.

(e) Every decision and order adverse to a party to the case, rendered by the Mayor or an agency in a contested case, shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Findings of fact and conclusions of law shall be supported by and in accordance with the reliable, probative, and substantial evidence. A copy of the decision and order and accompanying findings and conclusions shall be given by the Mayor or the agency, as the case may be, to each party or to his attorney of record.

CREDIT(S)

(Oct. 21, 1968, 82 Stat. 1208, Pub. L. 90-614, § 10; Oct. 8, 1975, D.C. Law 1-19, title I, § 102(gg)-(kk), 22 DCR 2054; Mar. 29, 1977, D.C. Law 1-96, § 3(a), (c), 23 DCR 9532b; Feb. 11, 1982, D.C. Law 4-67, § 2(a), 28 DCR 5043; Jan. 28, 1988, D.C. Law 7-62, § 14(a), 34 DCR 7426.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1509.

1973 Ed., § 1-1509.

Legislative History of Laws

For legislative history of D.C. Law 1-19, see Historical and Statutory Notes following § 2-501.

For legislative history of D.C. Law 1-96, see Historical and Statutory Notes following § 2-531.

Law 4-67 was introduced in Council and assigned Bill No. 4-55, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 13, 1981 and October 27, 1981, respectively. Signed by the Mayor on November 9, 1981, it was assigned Act No. 4-113 and transmitted to both Houses of Congress for its review.

Law 7-62 was introduced in Council and assigned Bill No. 7-108, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on

October 13, 1987 and October 27, 1987, respectively. Signed by the Mayor on November 5, 1987, it was assigned Act No. 7-95 and transmitted to both Houses of Congress for its review.

Uniform Law

This section is based upon §§ 9 and 10 of the Uniform Law Commissioners' Model State Administrative Procedure Act (1961 Act). See 15 Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

DC CODE § 2-509

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