

OFFICE OF ADMINISTRATIVE HEARINGS
RESOURCE CENTER

UNDERSTANDING A FINAL ORDER



OAH's Mission

The District of Columbia Office of Administrative Hearings (OAH) is an administrative court with 33 Administrative Law Judges that decide contested cases from more than 40 District agencies, boards and commissions. The independent agency is a neutral, impartial tribunal that holds hearings and decides appeals from various agency decisions. OAH's docket includes cases involving unemployment compensation, Medicaid and other public benefits, public space, rent control, professional and business licenses, and building, health and fire code violations. OAH enhances the quality of life in our city by providing residents with a fair, efficient and effective system to manage and resolve administrative litigation arising under District of Columbia law.

Please Note

This information is provided as a service to assist parties in learning more about the hearings process in the Office of Administrative Hearings (OAH). This guide does not give legal advice. You can only obtain legal advice from a lawyer.

The OAH Resource Center makes every effort to keep informational materials, such as this guide, up-to-date, but laws and procedures change frequently. Therefore, OAH does not guarantee the accuracy of this information.

Anyone seeking the full text of procedures applicable at OAH should consult 1 DCMR Chapters 28 and 29, available online at <http://oah.dc.gov> and in print at OAH.

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What is a Final Order?

A Final Order is the written resolution of a case before an administrative law judge at the Office of Administrative Hearings. The judge provides a written decision to give the parties to the case a clear explanation of the result, and a permanent record of the result.

What is in the Final Order?

Each Final Order will contain the following:

1. A review of the facts of the case;
2. A discussion of the law and rules the judge used to make his or her decision;
3. A decision telling the parties what they must do, if anything; and
4. An explanation of appeal rights.

When does the Final Order go into effect?

The Final Order is effective immediately. All parties to the case must obey it, unless – and until – it is later changed.

What if I Disagree With the Result?

If you do not get everything you ask for in a Final Order, you can either:

1. Accept the order and do nothing;
2. Ask the judge to change the Final Order; or
3. Appeal the Final Order to the DC Court of Appeals.

How do I ask the judge to change the Final Order?

There are two ways to ask the Judge to change the Final Order:

1. Motion for Reconsideration or for a New Hearing
2. Motion for Relief from Final Order

In either case, you have to write a short and plain statement of all the reasons why the Judge should change the Final Order. Your statement or “motion” should be filed with OAH and provided to the other side.

How are the motions different?

A motion asking for a change that you file **within the first 10 days** after the Final Order is mailed to you is called a Motion for Reconsideration or for New Hearing.

A motion asking for change that you file **after the first 10 days, but before the 121st day**, is called a Motion for Relief from Final Order. (If you file any later than 120 days, the motion will not be considered.)

A Motion for Reconsideration or for a New Hearing (within 10 days after the Final Order is mailed), allows the judge to change your Final Order for more reasons than a Motion for Relief from Final Order (after 10 days, but within 120 days). In other words, the judge is more limited in what he or she can consider when reviewing a Motion for Relief from Final Order.

How long will the judge take to decide my motion?

It depends. OAH Rule 2828.15 states that a judge should rule on any motion asking for a change in a Final Order within 45 calendar days. **If a judge does not rule, then the motion is denied as a matter of law.** The judge can extend that 45-day period by an additional 30 days.

How does filing one of these motions affect my right to appeal to the Court of Appeals?*

If you file a Motion for Reconsideration or for a New Hearing (within 10 days after the Final Order is mailed), the time you have to file an appeal to the Court of Appeals **does not begin to run until after** the judge decides your motion (or OAH Rule 2828.15 is triggered).

If you file a Motion for Relief from Final Order (after 10 days, but within 120 days), the time you have to file an appeal to the Court of Appeals is **not** stopped, but continues to run.

Can I delay the Final Order if I disagree with it?

Asking the judge to change the Final Order (as described above) **does not** delay the date a Final Order goes into effect. If you want to delay the Final Order while requesting that it be changed, you can file a separate motion to “**stay**” the Final Order. “Staying” a Final Order means that the Final Order will not go into effect until **after** the request for a change is decided. A Motion to Stay a Final Order must be submitted in writing and must explain why the Judge should grant the motion.

***See page 8 of this guide for more information – including deadlines – on appealing the Final Order to a higher court or board of review.**

Motion for Reconsideration or a New Hearing

What is it?

A Motion for Reconsideration or a New Hearing is a request to the judge that heard a case to reconsider the Final Order or schedule a new hearing.

How long do I have to file?

Ten (10) days after the Final Order has been issued (with an extra 5 days if the Final Order was mailed to you).

What is a good reason for Reconsideration or a New Hearing?

A Judge may change the Final Order if:

- a) The party filing the motion did not attend the hearing, has good reason for not doing so, and states an adequate claim or defense;
- b) The party filing the motion did not file a required answer to a Notice of Infraction or Notice of Violation or did not file some other required document, has a good reason for not doing so, and states an adequate claim or defense;
- c) The Final Order contains an error of law;
- d) The Final Order's findings of fact are not supported by the evidence;
- e) New evidence has been discovered that previously was not reasonably available to the party filing the motion; or
- f) There is an additional reason that the judge finds requires a change in the interest of justice.

Remember:

The time to file an Appeal to the Court of Appeals does not start to run until the judge has ruled on this type of Motion (or Rule 2828.15 has triggered).

Motion for Relief from a Final Order

What is it?

A Motion for Relief from a Final Order is a request to the judge that heard a case to change the Final Order.

How long do I have to file?

120 days after the Final Order has been issued (an extra five days if the Final Order was mailed to you).

What is a good reason for Relief from a Final Order?

A judge may change the Final Order if:

- a) The party filing the motion did not attend the hearing, has good reason for not doing so, and states an adequate claim or defense;
- b) The party filing the motion did not file a required answer to a Notice of Infraction or Notice of Violation or did not file some other required document, has a good reason for not doing so, and states an adequate claim or defense;
- c) Mistake, inadvertence, surprise, or excusable neglect;
- d) Newly discovered evidence that by due diligence could not have been discovered in time to file a Motion for Reconsideration or for New Hearing within the ten (10) calendar day deadline;
- e) Fraud, misrepresentation, or other misconduct of an adverse party;
- f) The Final Order is void;
- g) A prior judgment on which the Final Order is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
- h) For good cause shown, the Government may ask that a Final Order issued in its favor be set aside.

Additional Motion Information

What is not a good reason to ask for a change in a Final Order?

If the Judge makes a mistake or leaves something out of a Final Order but that mistake does not disadvantage either party, this is considered “Harmless Error.” Final Orders cannot be changed based on Harmless Error.

How will I know the result?

If the Judge grants the motion, the Judge may:

- a) Order further written submissions from the parties;
- b) Order the parties to appear for a hearing; or
- c) Issue a new Final Order that may or may not change the result.

The Judge’s Orders related to these motions are mailed to all parties.

What is an Appeal?

The person who is not satisfied with a Final Order can ask a higher court (or, depending on the type of case, a review board) to review the decision. This is called an “appeal.” Most cases are appealed to the DC Court of Appeals, but some cases must be appealed to other review boards.

What does an appeal involve?

An appeal is a request that the Court of Appeals (or the appropriate review board) performs a review of the evidence **already submitted** by the parties. Generally, an appeal is **not** another hearing where new evidence can be offered by the parties. The Court of Appeals also reviews the law and procedure upon which the administrative law judge relied. Written arguments are submitted, and sometimes oral arguments may be granted.

How do I appeal my Final Order?

Every Final Order contains, usually at the end, the rules for an appeal. The rules of appeal may differ depending on the type of case. All appeals are subject to time limits. Pay close attention to the appeal information in your Final Order to know where you can appeal and how long you have to file an Appeal.

An Appeal **does not** delay the date a Final Order goes into effect. As explained above, any party can file a separate motion to **stay** a Final Order pending Appeal. “Staying” a Final Order means that the Final Order will not go into effect until **after** the appeal is decided. A Motion to Stay a Final Order must be submitted in writing and must explain why the Judge should grant the motion.

When determining whether to grant the stay, the Judge may consider:

- a) If the party filing the motion is likely to succeed with their appeal;
- b) If denial of the stay will cause irreparable injury;
- c) If, and to what degree, granting the stay will harm other parties; and
- d) If the public interest favors granting a stay.



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