

STATE GOVERNMENT
TITLE 10. GOVERNMENTAL PROCEDURES
SUBTITLE 2. ADMINISTRATIVE PROCEDURE ACT -- CONTESTED CASES

Md. **STATE GOVERNMENT** Code Ann. § 10-201 (2014)

§ 10-201. Declaration of policy

The purpose of this subtitle is to:

(1) ensure the right of all persons to be treated in a fair and unbiased manner in their efforts to resolve disputes in administrative proceedings governed by this subtitle; and

(2) promote prompt, effective, and efficient government.

§ 10-202. Definitions

(a) In general. -- In this subtitle the following words have the meanings indicated.

(b) Agency. -- "Agency" means:

(1) an officer or unit of the **State government** authorized by law to adjudicate contested cases; or

(2) a unit that:

(i) is created by general law;

(ii) operates in at least 2 counties; and

(iii) is authorized by law to adjudicate contested cases.

(c) Agency head. -- "Agency head" means:

(1) an individual or group of individuals in whom the ultimate legal authority of an agency is vested by any provision of law; or

(2) the secretary of the State department that is responsible for State programs that are administered by the Montgomery County Department of Health and Human Services.

(d) Contested case. --

(1) "Contested case" means a proceeding before an agency to determine:

(i) a right, duty, statutory entitlement, or privilege of a person that is required by statute or constitution to be determined only after an opportunity for an agency hearing; or

(ii) the grant, denial, renewal, revocation, suspension, or amendment of a license that is required by statute or constitution to be determined only after an opportunity for an agency hearing.

(2) "Contested case" does not include a proceeding before an agency involving an agency hearing required only by regulation unless the regulation expressly, or by clear implication, requires the hearing to be held in accordance with this subtitle.

(e) License. -- "License" means all or any part of permission that:

(1) is required by law to be obtained from an agency;

(2) is not required only for revenue purposes; and

(3) is in any form, including:

(i) an approval;

(ii) a certificate;

(iii) a charter;

(iv) a permit; or

(v) a registration.

(f) Office. -- "Office" means the Office of Administrative Hearings.

(g) Presiding officer. -- "Presiding officer" means the board, commission, agency head, administrative law judge, or other authorized person conducting an administrative proceeding under this subtitle.

§ 10-203. Scope of subtitle

(a) General exclusions. -- This subtitle does not apply to:

(1) the Legislative Branch of the **State government** or an agency of the Legislative Branch;

(2) the Judicial Branch of the **State government** or an agency of the Judicial Branch;

(3) the following agencies of the Executive Branch of the **State government**:

(i) the Governor;

(ii) the Department of Assessments and Taxation;

(iii) the Insurance Administration except as specifically provided in the Insurance Article;

(iv) the Maryland Parole Commission of the Department of Public Safety and Correctional Services;

(v) the Public Service Commission;

(vi) the Maryland Tax Court;

(vii) the State Workers' Compensation Commission;

(viii) the Maryland Automobile Insurance Fund; or

(ix) the Patuxent Institution Board of Review, when acting on a parole request;

(4) an officer or unit not part of a principal department of **State government** that:

(i) is created by or pursuant to the Maryland Constitution or general or local law;

(ii) operates in only 1 county; and

(iii) is subject to the control of a local government or is funded wholly or partly from local funds;

(5) unemployment insurance claim determinations, tax determinations, and appeals in the Department of Labor, Licensing, and Regulation except as specifically provided in Subtitle 5A of Title 8 of the Labor and Employment Article; or

(6) any other entity otherwise expressly exempted by statute.

(b) Applicability to property tax assessment appeals boards and correction of death certificates. -- This subtitle does apply to:

(1) the property tax assessment appeals boards; and

(2) as to requests for correction of certificates of death under § 5-310(d)(2) of the Health - General Article, the office of the Chief Medical Examiner.

(c) Public hearings. -- A public hearing required or provided for by statute or regulation before an agency takes a particular action is not an agency hearing under § 10-202(d) of this subtitle unless the statute or regulation:

(1) expressly requires that the public hearing be held in accordance with this subtitle; or

(2) expressly requires that any judicial review of the agency determination following the public hearing be conducted in accordance with this subtitle.

(d) Contested cases arising from State program administered by Montgomery County Department of Health and Human Services. --

(1) Subject to paragraphs (2) and (3) of this subsection, this subtitle does apply to a contested case that arises from a State program administered by the Montgomery County Department of Health and Human Services in the same manner as the subtitle applies to a county health department or local department of social services.

(2) For purposes of this subtitle, the Office of the Attorney General, after consultation with the County Attorney for Montgomery County, shall determine if the Montgomery County Department of Health and Human Services administers a State program.

(3) This subsection is not intended to extend or limit the authority of the Montgomery County Department of Health and Human Services to administer State programs in the manner of a county health department or local department of social services.

§ 10-204. Political subdivisions and instrumentalities

A political subdivision of the State or an instrumentality of a political subdivision is entitled, to the same extent as other legal entities, to be an interested person, party, or petitioner in a matter under this subtitle, including an appeal.

§ 10-205. Delegation of hearing authority

(a) To whom delegated; limitation. --

(1) Except as provided in paragraph (2) of this subsection, a board, commission, or agency head authorized to conduct a contested case hearing shall:

(i) conduct the hearing; or

(ii) delegate the authority to conduct the contested case hearing to:

1. the Office; or

2. with the prior written approval of the Chief Administrative Law Judge, a person not employed by the Office.

(2) A hearing held in accordance with § 4-608(f) or § 5-610(f) of the Business Occupations and Professions Article may not be delegated to the Office.

(3) With the written approval of the Chief Administrative Law Judge, a class of contested case hearings may be delegated as provided in paragraph (1)(ii)2 of this subsection.

(4) This subsection is not intended to restrict the right of an individual, expressly authorized by a statute in effect on October 1, 1993, to conduct a contested case hearing.

(b) Scope of authority delegated. -- An agency may delegate to the Office the authority to issue:

(1) proposed or final findings of fact;

(2) proposed or final conclusions of law;

(3) proposed or final findings of fact and conclusions of law;

(4) proposed or final orders or orders under Title 20 of this article; or

(5) the final administrative decision of an agency in a contested case.

(c) Procedure upon receipt of hearing request. -- Promptly after receipt of a request for a contested case hearing, an agency shall:

(1) notify the parties that the authorized agency head, board, or commission shall conduct the hearing;

(2) transmit the request to the Office so that the Office shall conduct the hearing in accordance with the agency's delegation; or

(3) request written approval from the Chief Administrative Law Judge to appoint a person not employed by the Office to conduct the hearing.

(d) Delegation final; exception. --

(1) Except as provided in paragraph (2) of this subsection, an agency's delegation and transmittal of all or part of a contested case to the Office is final.

(2) If an agency has adopted regulations specifying the criteria and procedures for the revocation of a delegation of a contested case, delegation of authority to hear all or part of a contested case may be revoked, by the agency head, board, or commission, in accordance with the agency's regulations, at any time prior to the earlier of:

(i) the issuance of a ruling on a substantive issue; or

(ii) the taking of oral testimony from the first witness.

(e) Duties of the Office. --

(1) The Office shall:

(i) conduct the hearing; and

(ii) except as provided in paragraph (2) of this subsection or as otherwise required by law, within 90 days after the completion of the hearing, complete the procedure authorized in the agency's delegation to the Office.

(2) The time limit specified in paragraph (1)(ii) of this subsection may be extended with the written approval of the Chief Administrative Law Judge.

§ 10-206. Procedural regulations

(a) Adoption by Office; conflict. --

(1) The Office shall adopt regulations to govern the procedures and practice in all contested cases delegated to the Office and conducted under this subtitle.

(2) Unless a federal or State law requires that a federal or State procedure shall be observed, the regulations adopted under paragraph (1) of this subsection shall take precedence in the event of a conflict.

(b) Adoption by agencies. -- Each agency may adopt regulations to govern procedures under this subtitle and practice before the agency in contested cases.

(c) Expedited hearings. -- Regulations adopted under this section may include procedures and

criteria for requesting and conducting expedited hearings.

(d) Prehearing procedures. -- Each agency and the Office may adopt regulations that:

- (1) provide for prehearing conferences in contested cases; or
- (2) set other appropriate prehearing procedures in contested cases.

(e) Explanatory materials. -- To assist the public in understanding the procedures followed by an agency or the Office in contested cases, an agency or the Office may develop and distribute supplemental explanatory materials, including the related forms that the agency or Office requires and instructions for completing the forms.

§ 10-206.1. Legal practice

(a) Practice before agency. -- An agency may not:

- (1) grant the right to practice law to an individual who is not authorized to practice law;
- (2) interfere with the right of a lawyer to practice before an agency or the Office; or
- (3) prohibit any party from being advised or represented at the party's own expense by an attorney or, if permitted by law, other representative.

(b) Publicly provided legal services. -- Subsection (a) of this section may not be interpreted to require the State to furnish publicly provided legal services in any proceeding under this subtitle.

§ 10-207. Notice of agency action

(a) In general. -- An agency shall give reasonable notice of the agency's action.

(b) Contents of notice. -- The notice shall:

- (1) state concisely and simply:
 - (i) the facts that are asserted; or
 - (ii) if the facts cannot be stated in detail when the notice is given, the issues that are involved;
- (2) state the pertinent statutory and regulatory sections under which the agency is taking its action;

(3) state the sanction proposed or the potential penalty, if any, as a result of the agency's action;

(4) unless a hearing is automatically scheduled, state that the recipient of notice of an agency's action may have an opportunity to request a hearing, including:

- (i) what, if anything, a person must do to receive a hearing; and
- (ii) all relevant time requirements; and

(5) state the direct consequences, sanction, potential penalty, if any, or remedy of the recipient's failure to exercise in a timely manner the opportunity for a hearing or to appear for a scheduled hearing.

(c) Consolidation of notices. -- The notice of agency action under this section may be consolidated with the notice of hearing required under § 10-208 of this subtitle.

(d) Publication in Register. -- For purposes of this section, publication in the Maryland Register does not constitute reasonable notice to a party.

§ 10-208. Notice of hearing

(a) In general. -- An agency or the Office shall give all parties in a contested case reasonable written notice of the hearing.

(b) Contents of notice. -- The notice shall state:

(1) the date, time, place, and nature of the hearing;

(2) the right to call witnesses and submit documents or other evidence under § 10-213(f) of this subtitle;

(3) any applicable right to request subpoenas for witnesses and evidence and specify the costs, if any, associated with such a request;

(4) that a copy of the hearing procedure is available on request and specify the costs associated with such a request;

(5) any right or restriction pertaining to representation;

(6) that failure to appear for the scheduled hearing may result in an adverse action against the party; and

(7) that, unless otherwise prohibited by law, the parties may agree to the evidence and waive their right to appear at the hearing.

(c) Consolidation of notices. -- The notice of hearing may be consolidated with the notice of agency action required under § 10-207 of this subtitle.

(d) Publication in Register. -- For purposes of this subtitle, publication in the Maryland Register does not constitute reasonable notice to a party.

§ 10-209. Notice mailed to address of licensee

(a) In general. -- Where a licensing statute provides for service other than by regular mail, notice under this subtitle may be sent by regular mail to the address of record of a person holding a license issued by the agency if:

(1) the person is required by law to advise the agency of the address; and

(2) the agency has been unsuccessful in giving notice in the manner otherwise provided by the licensing statute.

(b) Hearing. -- Upon a showing that the person neither knew nor had reasonable opportunity to know of the fact of service, a person served by regular mail under subsection (a) of this section shall be granted a hearing.

(c) Reasonable opportunity to know of service. -- A person holding a license shall be deemed to have had a reasonable opportunity to know of the fact of service if:

(1) the person is required by law to notify the agency of a change of address within a specified period of time;

(2) the person failed to notify the agency in accordance with the law;

(3) the agency or the Office mailed the notice to the address of record; and

(4) the agency did not have actual notice of the change of address prior to service.

§ 10-210. Dispositions

Unless otherwise precluded by law, an agency or the Office may dispose of a contested case by:

(1) stipulation;

- (2) settlement;
- (3) consent order;
- (4) default;
- (5) withdrawal;
- (6) summary disposition; or
- (7) dismissal.

§ 10-211. Hearings conducted by electronic means

(a) Permitted. -- In accordance with subsection (b) of this section, a hearing may be conducted by telephone, video conferencing, or other electronic means.

(b) Objections. --

(1) For good cause, a party may object to the holding of a hearing by telephone, video conferencing, or other electronic means.

(2) If a party establishes good cause in opposition to the holding of a hearing by telephone or other similar audio electronic means, the hearing shall be held in person or by video conferencing or other similar audiovisual electronic means.

(3) If a party establishes good cause in opposition to the holding of a hearing by video conferencing or other similar audiovisual electronic means, the hearing shall be conducted in person.

§ 10-212. Open hearings

(a) In general. -- Except as otherwise provided by law, a contested case hearing conducted by the Office shall be open to the public.

(b) Subtitle 5 not applicable. -- Hearings conducted by the Office are not subject to Subtitle 5 of this title.

§ 10-212.1. Interpreters

(a) In general. --

(1) In a contested case, a party or witness may apply to the agency for the appointment of a qualified interpreter to assist that party or witness, if the party or witness is deaf or, because of a hearing impediment, cannot readily understand or communicate the spoken English language.

(2) On application of the party or witness the agency shall appoint a qualified interpreter.

(3) In selecting a qualified interpreter for appointment, the agency may consult the directory of interpreters for manual communication or oral interpretation to assist deaf persons that is maintained by the courts of the State.

(b) Compensation. --

(1) An interpreter appointed under this section shall be allowed the compensation that the agency considers reasonable.

(2) Subject to paragraph (3) of this subsection, the compensation shall be paid by the agency.

(3) If the agency has the authority to tax for services and expenses as a part of the costs of a case, the agency may tax the amount paid to an interpreter as a part of these services and expenses in accordance with the federal Americans with Disabilities Act.

§ 10-213. Evidence

(a) In general. --

(1) Each party in a contested case shall offer all of the evidence that the party wishes to have made part of the record.

(2) If the agency has any evidence that the agency wishes to use in adjudicating the contested case, the agency shall make the evidence part of the record.

(b) Probative evidence. -- The presiding officer may admit probative evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs and give probative effect to that evidence.

(c) Hearsay. -- Evidence may not be excluded solely on the basis that it is hearsay.

(d) Exclusions. -- The presiding officer may exclude evidence that is:

(1) incompetent;

(2) irrelevant;

(3) immaterial; or

(4) unduly repetitious.

(e) Rules of privilege. -- The presiding officer shall apply a privilege that law recognizes.

(f) Scope of evidence. -- On a genuine issue in a contested case, each party is entitled to:

(1) call witnesses;

(2) offer evidence, including rebuttal evidence;

(3) cross-examine any witness that another party or the agency calls; and

(4) present summation and argument.

(g) Documentary evidence. -- The presiding officer may receive documentary evidence:

(1) in the form of copies or excerpts; or

(2) by incorporation by reference.

(h) Official notice of facts. --

(1) The agency or the Office may take official notice of a fact that is:

(i) judicially noticeable; or

(ii) general, technical, or scientific and within the specialized knowledge of the agency.

(2) Before taking official notice of a fact, the presiding officer:

(i) before or during the hearing, by reference in a preliminary report, or otherwise, shall notify each party; and

(ii) shall give each party an opportunity to contest the fact.

(i) Evaluation. -- The agency or the Office may use its experience, technical competence, and specialized knowledge in the evaluation of evidence.

§ 10-214. Consideration of other evidence

(a) Findings based on evidence of record. -- Findings of fact must be based exclusively on the evidence of record in the contested case proceeding and on matters officially noticed in that proceeding.

(b) Regulations, rulings, etc., binding. -- In a contested case, the Office is bound by any agency regulation, declaratory ruling, prior adjudication, or other settled, preexisting policy, to the same extent as the agency is or would have been bound if it were hearing the case.

§ 10-215. Transcription of proceedings

All or part of proceedings in a contested case shall be transcribed if any party:

(1) requests the transcription; and

(2) pays any required costs.

§ 10-216. Exceptions

(a) Notice of proposed decision; consideration of exceptions. --

(1) In the case of a single decision maker, if the final decision maker in a contested case has not personally presided over the hearing, the final decision may not be made until each party is given notice of the proposed decision in accordance with § 10-220 of this subtitle and an opportunity to:

(i) file exceptions with the agency to the proposed decision; and

(ii) present argument to the final decision maker that the proposed decision should be affirmed, reversed, or remanded.

(2) In the case of a decision-making body, if a majority of the officials who are to make a final decision in a contested case have not personally presided over the hearing, the officials may not make the final decision until each party is given notice of the proposed decision in accordance with

§ 10-217. Proof

The standard of proof in a contested case shall be the preponderance of evidence unless the standard of clear and convincing evidence is imposed on the agency by regulation, statute, or constitution

§ 10-218. Contents of record

The presiding officer hearing a contested case shall make a record that includes:

- (1) all motions and pleadings;
- (2) all documentary evidence that the agency or Office receives;
- (3) a statement of each fact of which the agency or Office has taken official notice;
- (4) any staff memorandum submitted to an individual who is involved in the decision making process of the contested case by an official or employee of the agency who is not authorized to participate in the decision making process;
- (5) each question;
- (6) each offer of proof;
- (7) each objection and the ruling on the objection;
- (8) each finding of fact or conclusion of law proposed by:
 - (i) a party; or
 - (ii) the presiding officer;
- (9) each exception to a finding or conclusion proposed by a presiding officer; and
- (10) each intermediate proposed and final ruling by or for the agency, including each report or opinion issued in connection with the ruling.

§ 10-219. Ex parte communications

(a) Restrictions. --

- (1) Except as provided in paragraph (2) of this subsection, a presiding officer may not communicate ex parte directly or indirectly regarding the merits of any issue in the case, while the case is pending, with:
 - (i) any party to the case or the party's representative or attorney; or
 - (ii) any person who presided at a previous stage of the case.

(2) An agency head, board, or commission presiding over a contested case may communicate with members of an advisory staff of, or any counsel for, the agency, board, or commission who otherwise does not participate in the contested case.

(b) Communications prior to hearing. -- If, before hearing a contested case, a person receives an ex parte communication of a type that would violate subsection (a) of this section if received while conducting a hearing, the person, promptly after commencing the hearing, shall disclose the communication in the manner prescribed in subsection (c) of this section.

(c) Disclosure. -- An individual who is involved in the decision making process and who is personally aware of an ex parte communication shall:

(1) give notice to all parties;

(2) include in the record of the contested case:

(i) each written communication received;

(ii) a memorandum that states the substance of each oral communication received;

(iii) each written response to a communication; and

(iv) a memorandum that states the substance of each oral response to the communication; and

(3) send to each party a copy of each communication, memorandum, and response.

(d) Rebuttal. -- A party may rebut an ex parte communication if the party requests the opportunity to rebut within 10 days after notice of the communication.

(e) Remedial action. --

(1) To eliminate the effect of an ex parte communication that is made in violation of this section, the presiding officer or, if the presiding officer is a multimember body, the individual board or commission member, may:

(i) withdraw from the proceeding; or

(ii) terminate the proceeding without prejudice.

(2) An order to terminate the proceeding without prejudice shall state the last date by which a party may reinstitute the proceeding.

§ 10-220. Proposed decisions and orders

(a) Preparation. -- If the Office conducts a hearing under this subtitle, the Office shall prepare proposed findings of fact, conclusions of law, or orders in accordance with the agency's delegation under § 10-205 of this subtitle.

(b) Submission. -- The Office shall send its proposed findings, conclusions, or orders:

(1) to the parties and the agency directly; or

(2) if the agency's delegation under § 10-205 of this subtitle requires, to the agency for distribution by the agency to the parties.

(c) Review and issuance. --

(1) Within 60 days after receipt of the Office's proposed findings, conclusions, or order under subsection (b)(2) of this section, the agency shall:

(i) review the Office's proposed findings, conclusions, or order;

(ii) issue the proposed decision, which may include the Office's proposed findings, conclusions, or order with or without modification; and

(iii) send the proposed decision and a copy of the Office's proposed findings, conclusions, or order to the parties.

(2) The time limit specified in paragraph (1) of this subsection may be extended by the agency head, board, or commission with written notice to the parties.

(d) Form and contents. -- A proposed decision or order, including proposed decisions or orders issued for contested case hearings subject to this subtitle but not conducted by the Office, shall:

(1) be in writing or stated on the record;

(2) contain separate findings of fact and conclusions of law;

(3) include an explanation of procedures and time limits for filing exceptions; and

(4) if the Office conducted the hearing and the agency's proposed decision includes any changes, modifications, or amendments to the Office's proposed findings, conclusions, or orders, contain an explanation of the reasons for each change, modification, or amendment.

§ 10-221. Final decisions and orders

(a) Form. -- A final decision or order in a contested case that is adverse to a party shall be in writing or stated on the record.

(b) Contents. --

(1) A final decision or order in a contested case, including a remand of a proposed decision, shall contain separate statements of:

- (i) the findings of fact;
- (ii) the conclusions of law; and

(iii) the order.

(2) A written statement of appeal rights shall be included with the decision.

(3) If the findings of fact are stated in statutory language, the final decision shall state concisely and explicitly the facts that support the findings.

(4) If, in accordance with regulations, a party submitted proposed findings of fact, the final decision shall state a ruling on each proposed finding.

(c) Distribution. -- The final decision maker promptly shall deliver or mail a copy of the final decision or order to:

(1) each party; or

(2) the party's attorney of record.

§ 10-222. Judicial review

(a) Review of final decision. --

(1) Except as provided in subsection (b) of this section, a party who is aggrieved by the final decision in a contested case is entitled to judicial review of the decision as provided in this section.

(2) An agency, including an agency that has delegated a contested case to the Office, is entitled to judicial review of a decision as provided in this section if the agency was a party before the agency or the Office.

(b) Review of interlocutory order. -- Where the presiding officer has final decision-making authority, a person in a contested case who is aggrieved by an interlocutory order is entitled to judicial review if:

(1) the party would qualify under this section for judicial review of any related final decision;

(2) the interlocutory order:

- (i) determines rights and liabilities; and
- (ii) has immediate legal consequences; and

(3) postponement of judicial review would result in irreparable harm.

(c) Jurisdiction and venue. -- Unless otherwise required by statute, a petition for judicial review shall be filed with the circuit court for the county where any party resides or has a principal place of business.

(d) Parties. --

(1) The court may permit any other interested person to intervene in a proceeding under this section.

(2) If the agency has delegated to the Office the authority to issue the final administrative decision pursuant to § 10-205(a)(3) of this subtitle, and there are 2 or more other parties with adverse interests remaining in the case, the agency may decline to participate in the judicial review. An agency that declines to participate shall inform the court in its initial response.

(e) Stay of enforcement. --

(1) The filing of a petition for judicial review does not automatically stay the enforcement of the final decision.

(2) Except as otherwise provided by law, the final decision maker may grant or the reviewing court may order a stay of the enforcement of the final decision on terms that the final decision maker or court considers proper.

(f) Additional evidence before agency. --

(1) Judicial review of disputed issues of fact shall be confined to the record for judicial review supplemented by additional evidence taken pursuant to this section.

(2) The court may order the presiding officer to take additional evidence on terms that the court considers proper if:

- (i) before the hearing date in court, a party applies for leave to offer additional evidence; and
- (ii) the court is satisfied that:

1. the evidence is material; and

2. there were good reasons for the failure to offer the evidence in the proceeding before the presiding officer.

(3) On the basis of the additional evidence, the final decision maker may modify the findings and decision.

(4) The final decision maker shall file with the reviewing court, as part of the record:

- (i) the additional evidence; and
- (ii) any modifications of the findings or decision.

(g) Proceeding. --

(1) The court shall conduct a proceeding under this section without a jury.

(2) A party may offer testimony on alleged irregularities in procedure before the presiding officer that do not appear on the record.

(3) On request, the court shall:

- (i) hear oral argument; and
- (ii) receive written briefs.

(h) Decision. -- In a proceeding under this section, the court may:

(1) remand the case for further proceedings;

(2) affirm the final decision; or

(3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision:

- (i) is unconstitutional;
- (ii) exceeds the statutory authority or jurisdiction of the final decision maker;
- (iii) results from an unlawful procedure;
- (iv) is affected by any other error of law;
- (v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
- (vi) is arbitrary or capricious.

§ 10-222.1. Administrative orders

(a) Enforcement. -- A party to a contested case may timely seek civil enforcement of an administrative order by filing a petition for civil enforcement in an appropriate circuit court.

(b) Jurisdiction and venue. -- Unless otherwise required by statute, a party shall file a petition for civil enforcement of an administrative order in the circuit court for the county where any party resides or has a principal place of business.

(c) Parties -- Defendants. -- In an action seeking civil enforcement of an administrative order, a party shall name, as a defendant, each alleged violator against whom the party seeks to obtain civil enforcement.

(d) Parties -- Plaintiffs. -- A party may file an action for civil enforcement of an administrative order if another party is in violation of the administrative order.

(e) Remedies. -- A party in an action for civil enforcement of an administrative order may request, and a court may grant, one or more of the following forms of relief:

- (1) declaratory relief;
- (2) temporary or permanent injunctive relief;
- (3) a writ of mandamus; or
- (4) any other civil remedy provided by law.

§ 10-223. Appeals to Court of Special Appeals

(a) Scope of section. -- This section does not apply to:

- (1) a case that arises under Title 16 of the Transportation Article unless a right to appeal to the

Court of Special Appeals is specifically provided; or

(2) a final judgment on actions of the Inmate Grievance Office.

(b) Right of appeal. --

(1) A party who is aggrieved by a final judgment of a circuit court under this subtitle may appeal to the Court of Special Appeals in the manner that law provides for appeal of civil cases.

(2) An agency that was a party in the circuit court may appeal under paragraph (1) of this subsection.

§ 10-224. Litigation expenses for small businesses and nonprofit organizations

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Business" means a trade, professional activity, or other business that is conducted for profit.

(3) "Nonprofit organization" means an organization that is exempt or eligible for exemption from taxation under § 501(c)(3) of the Internal Revenue Code.

(b) Scope of section. -- This section applies only to:

(1) an agency operating statewide;

(2) a business that, on the date when the contested case or civil action is initiated:

(i) is independently owned and operated; and

(ii) has less than 50 employees, including, if a corporation owns 50% or more of the stock of the business, each employee of the corporation; and

(3) a nonprofit organization.

(c) Reimbursement authorized. -- Subject to the limitations in this section, an agency or court may award to a business or nonprofit organization reimbursement for expenses that the business or nonprofit organization reasonably incurs in connection with a contested case or civil action that:

(1) is initiated against the business or nonprofit organization by an agency as part of an administrative or regulatory function;

(2) is initiated without substantial justification or in bad faith; and

(3) does not result in:

(i) an adjudication, stipulation, or acceptance of liability of the business or nonprofit organization;

(ii) a determination of noncompliance, violation, infringement, deficiency, or breach on the part of the business or nonprofit organization; or

(iii) a settlement agreement under which the business or nonprofit organization agrees to take corrective action or to pay a monetary sum.

(d) Claim required in contested case. --

(1) To qualify for an award under this section when the agency has initiated a contested case, the business or nonprofit organization must make a claim to the agency before taking any appeal.

(2) The agency shall act on the claim.

(e) Amount. --

(1) An award under this section may include:

(i) the expenses incurred in the contested case;

(ii) court costs;

(iii) counsel fees; and

(iv) the fees of necessary witnesses.

(2) An award under this section may not exceed \$ 10,000.

(3) The court may reduce or deny an award to the extent that the conduct of the business or nonprofit organization during the proceedings unreasonably delayed the resolution of the matter in controversy.

(f) Source of award. -- An award under this section shall be paid as provided in the State budget.

(g) Appeals. --

(1) If the agency denies an award under this section, the business or nonprofit organization may appeal, as provided in this subtitle.

(2) An agency may appeal an award that a court makes under this section.

§ 10-225. Suspension of provisions

(a) In general. -- Upon a finding by the Governor that there is an imminent threat within a time certain of a loss or denial of federal funds to the State because of the operation of any section of this subtitle or of Title 9, Subtitle 16 of this article, the Governor by executive order may suspend the applicability of part or all of this subtitle or of Title 9, Subtitle 16 of this article to a specific class of contested cases.

(b) Duration. -- A suspension under this section is effective only so long as, and to the extent, necessary to avoid a denial or loss of federal funds to the State.

(c) Contents of order. -- The executive order shall explain the basis for the Governor's finding and state the period of time during which the suspension is to be effective.

(d) Termination. -- The Governor shall declare the termination of a suspension when it is no longer necessary to prevent the loss or denial of federal funds.

(e) Publication of order. -- An executive order issued under this section shall be:

(1) presented to the Legislative Policy Committee; and

(2) published in the Maryland Register pursuant to § 7-206(a)(2)(iii) of this article.

§ 10-226. Licenses -- Special provisions

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "License" means all or any part of permission that:

- (i) is required by law to be obtained from a unit;
- (ii) is not required only for revenue purposes; and
- (iii) is in any form, including:

1. an approval;

2. a certificate;

3. a charter;

4. a permit; or

5. a registration.

(3) "Unit" means an officer or unit that is authorized by law to:

(i) adopt regulations subject to Subtitle 1 of this title; or

(ii) adjudicate contested cases under this subtitle.

(b) Renewal and expiration. -- If, at least 2 calendar weeks before a license expires, the licensee makes sufficient application for renewal of the license, the license does not expire until:

(1) the unit takes final action on the application; and

(2) either:

(i) the time for seeking judicial review of the action expires; or

(ii) any judicial stay of the unit's final action expires.

(c) Revocation or suspension. --

(1) Except as provided in paragraph (2) of this subsection, a unit may not revoke or suspend a license unless the unit first gives the licensee:

(i) written notice of the facts that warrant suspension or revocation; and

(ii) an opportunity to be heard.

(2) A unit may order summarily the suspension of a license if the unit:

(i) finds that the public health, safety, or welfare imperatively requires emergency action; and

(ii) promptly gives the licensee:

1. written notice of the suspension, the finding, and the reasons that support the finding; and

2. an opportunity to be heard.

§ 10-227. Licenses -- Fee

Repealed by Acts 1996, ch. 426, effective October 1, 1996.