

Administrative Review a View from the Bench

The Honorable Laurie Eiserloh
Judge 455th Civil District Court
Travis County, TX



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Special Thanks to Attorney Linda Secord!



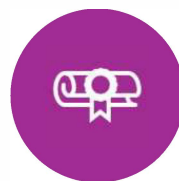
**Good grief, I'm a trial lawyer.
What am I supposed to do with
an Administrative Appeal?**



**Framework for our discussion
today.**



**Ms. Secord's high-level
description of judicial review is
helpful for anyone who has an
appeal .**



*Linda B. Secord, Board Certified in
Administrative Law since 1989, is a
former Assistant Attorney General
now practicing in Austin.*

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Administrative Appeal vs Judicial Review

“Administrative Appeal” is a colloquial term for suits for judicial review seeking reversal of decisions made by a state agency. The agency’s enabling statute and the Administrative Procedure Act (APA), Texas Government Code chapter 2001, govern these cases.

The agency’s enabling statute, in turn, addresses the actions and decisions a specific agency may take, and the processes it must follow.

Always read both the agency’s statute and the APA and consider how both can be harmonized in light of the applicable rules of statutory construction.

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Agency Level

These cases start at the agency level, which is the ultimate decision maker.

Matters contested at the agency level are heard by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH) under the authority of Chapter 2003 of the Texas Government Code.

Some agencies like, Department of Insurance Division of Workers Compensation have their own ALJs.

Be mindful and fully develop your record at the ALJ hearing!

SOAH functions as a fact-finder, preparing a Proposal for Decision (PFD) that sets out the dispute, makes findings of fact and conclusions of law, and recommends an order for the agency to consider and adopt.

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The State Office of Administrative Hearings



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A View From the Bench

It is somewhat rare for the same attorney to represent a client at both the agency level and on judicial review.

If you are new to a case on judicial review, learn the basic facts and why your client lost in the ALJ's hearing.

After you review the record at the ALJ level, manage client expectations before you file your judicial review.

It can be very difficult to overturn an ALJ's decision on judicial review.

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