

As to the issuance of subpoenas and administration of oaths for the conduct of a hearing, see Art. 43, § 3 of the Code, which gives these powers to the Secretary or to anyone the Secretary designates.

11-312. ADMINISTRATIVE AND JUDICIAL REVIEW.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN THIS SECTION FOR AN ACTION UNDER § 11-310 OF THIS SUBTITLE, ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN THE ADMINISTRATIVE PROCEDURE ACT, MAY:

(1) APPEAL THAT DECISION TO THE BOARD OF REVIEW;
AND

(2) THEN TAKE ANY FURTHER APPEAL ALLOWED BY THE ADMINISTRATIVE PROCEDURE ACT.

(B) AN ACTION UNDER § 11-310.

(1) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER § 11-310 OF THIS SUBTITLE MAY NOT APPEAL TO THE BOARD OF REVIEW BUT MAY TAKE A DIRECT JUDICIAL APPEAL.

(2) THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL REVIEW OF FINAL DECISIONS IN THE ADMINISTRATIVE PROCEDURE ACT.

REVISOR'S NOTE: This section, which is substituted for the last three clauses of the third sentence of Art. 43, § 480(g), is standard language used throughout this article to provide for administrative and judicial review. The new language is based on the combined requirements of the Administrative Procedure Act and of the provisions regarding the Board of Review.

The introductory language of subsection (a) and the introductory phrase of subsection (b)(1) of this section conform to the Administrative Procedure Act, which provides a right of judicial review of any "final decision" of an agency in a "contested case". A situation is a contested case if the party has a right to a hearing (see the Administrative Procedure Act definition of "contested case" in Art. 41, § 244 of the Code).

As to the application of this section, the Board of Review has general jurisdiction over final decisions of the Board under this subtitle. Therefore, for some actions, a decision of the Board of Review is a prerequisite to judicial review. Subsection (a) of this section reflects that general procedure. The Board of Review,