

As to subsection (d) of this section, the statement that the individual may appear with counsel is implicit in the scheme of the Administrative Procedure Act; however, since this provision is stated explicitly in present Art. 43, §636(c), it is retained in this section.

The fifth sentence of present Art. 43, § 636(c), which relates to the power of the Board to adjourn the hearing from time to time, is deleted as unnecessary.

16-314. ADMINISTRATIVE AND JUDICIAL REVIEW.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN THIS SECTION FOR AN ACTION UNDER § 16-312 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 § 16-312.

(1) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER § 16-312 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 is new language derived without substantive change from Art. 43, § 636(e).

The provisions of this section are based on the combined requirements of the Administrative Procedure Act, present Art. 43, § 636(e), and Art. 41, §§ 206A and 206B of the Code 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 a party has a right to a hearing (see the Administrative Procedure Act definition of "contested case" in Art. 41, § 244 of the Code).