

[(d)](E) (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 [agency] FINAL DECISION MAKER may grant or the reviewing court may order a stay of the enforcement of the final decision on terms that the [agency] FINAL DECISION MAKER or court considers proper.

[(F)](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.

DRAFTER'S NOTE: Subsection (f)(1) is derived from § 5-113 of the Model APA.

[(e) (1)] (2) The court may order the [agency] 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 [agency] PRESIDING OFFICER.

[(2)](3) On the basis of the additional evidence, the [agency] FINAL DECISION MAKER may modify the findings and decision.

[(3)](4) The [agency] 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.

[(f)](G) (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 [agency] PRESIDING OFFICER that do not appear on the record.

(3) On request, the court shall:

(i) hear oral argument; and

(ii) receive written briefs.

[(g)](H) In a proceeding under this section, the court may:

(1) remand the case for further proceedings;

(2) affirm the FINAL decision [of the agency]; or