

### **Rule 335. Direct Review of Administrative Orders by the Appellate Court**

The procedure for a statutory direct review of orders of an administrative agency by the Appellate Court shall be as follows:

**(a) The Petition for Review.** Unless another time period is provided specifically by the law authorizing review, the petition for review shall be filed in the Appellate Court within 35 days from the date that the order or decision sought to be reviewed was served upon the party affected by any order or decision of the administrative agency, and shall specify the parties seeking review and shall designate the respondent and the order or part thereof to be reviewed. The agency and all other parties of record shall be named respondents. The petition shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article III Forms Appendix.

**(b) Service.** The petitioner shall serve the petition for review on the agency and on all other parties of record to the proceeding before the agency in the manner prescribed for serving and proving service of a notice of appeal in Rule 303(c).

**(c) Other Parties.** If any respondent other than the agency wishes to participate in the proceeding in the Appellate Court, that respondent shall file an appearance, and those who do shall be parties in the Appellate Court.

**(d) The Record.** The entire record before the administrative agency shall be the record on review unless the agency and the petitioner stipulate to omit portions. Omitted portions shall be transmitted to the Appellate Court at any time on the request of the agency, the petitioner or any other party, which request shall be served on all parties, or on order of the court. The record shall be filed with the Appellate Court and shall contain, be arranged, prepared, numbered, and certified as required for the record on appeal under Rules 321 through 325 and the Standards and Requirements for Electronic Filing the Record on Appeal.

**(e) Time for Filing Record.** The agency shall file the record within 35 days after the filing of the petition for review. Extensions of time for filing the record may be granted by the reviewing court or a judge thereof on motion made before the expiration of the original or extended time or on motion filed within 35 days thereafter supported by a showing of reasonable excuse for failure to file the motion earlier.

**(f) Time for Filing Briefs.** The time for filing briefs specified in Rule 343 begins to run from the day the record is filed.

**(g) Stay.** Application for a stay of a decision or order of an agency pending direct review in the Appellate Court shall ordinarily be made in the first instance to the agency. A motion for stay may be made to the Appellate Court or to a judge thereof, but the motion shall show that application has been made to the agency and denied, with the reasons, if any, given by it for denial, or that application to the agency for the relief sought was not practicable. The motion shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the motion shall be supported by affidavit. With the motion shall be filed such parts of the record as are relevant to the relief sought. Reasonable notice of the motion shall be given to all parties to the proceeding in the Appellate Court. The court may condition relief under this rule upon the filing of a bond or other appropriate security.

**(h)** In any proceeding for the review of a decision by the Illinois State Labor Relations Board,

the Illinois Local Labor Relations Board, or the Illinois Educational Labor Relations Board, a cross-petition for enforcement may be filed by the Board in accordance with the procedures set forth in Rule 361 governing motion practice in the Appellate Court, except that no proposed order shall be submitted.

**(i) Application of other Rules and Administrative Review Law.**

(1) Insofar as appropriate, the provisions of Rules 301 through 373 (except for Rule 326) are applicable to proceedings under this rule. As used in any applicable rule, the term “appellant” includes a petitioner and the term “appellee” includes a respondent in proceedings to review or enforce agency orders.

(2) Sections 3-101, 3-108(c), 3-109, 3-110, and 3-111 of the Code of Civil Procedure are applicable to proceedings to review orders of the agency. The Appellate Court has all of the powers which are vested in the circuit court by the above enumerated sections.

**(j) Return of the Record on Appeal.** Any paper or physical components of the record on appeal shall be returned by the clerk of the reviewing court to the clerk of the administrative agency after the final decision of the reviewing court.

Effective July 1, 1971; amended May 28, 1982, effective July 1, 1982; amended April 27, 1984, effective July 1, 1984; amended December 17, 1993, effective February 1, 1994; [amended Oct. 15, 2015](#), [eff. Jan. 1, 2016](#); [amended June 22, 2017](#), [eff. July 1, 2017](#).

Committee Comments  
(Revised December 17, 1993)

The General Assembly has provided by law that a final order of the Pollution Control Board (415 ILCS 5/41 (West 1992)), a judgment concerning disclosure of campaign contributions and expenditures from the State Board of Elections (10 ILCS 5/9-22 (West 1992)), a final order of the Illinois State Labor Relations Board, Illinois Local Labor Relations Board (5 ILCS 315/11 (West 1992)) or the Illinois Educational Labor Relations Board (115 ILCS 5/16 (West 1992)), a decision from the Illinois Human Rights Commission (775 ILCS 5/8-111 (West 1992)), any order or decision of the Illinois Commerce Commission (220 ILCS 5/10-201 (West 1992)), final orders of the Illinois Gaming Board (230 ILCS 10/17.1 (West 1992)), final decisions of the Property Tax Appeal Board where a change in assessed valuation of \$300,000 or more was sought (35 ILCS 205/111.4 (West 1992 Supp.)) and a certain initial license issuance by the Director of the Department of Nuclear Safety and in connection therewith certain determinations of the Low-Level Radioactive Waste Disposal Facility Siting Commission (420 ILCS 20/18 (West 1992)) may be appealed directly to the Appellate Court.

Rule 335 prescribes the procedure for the review of orders of any agency which the legislature has assigned to the Appellate Court.

The rule is based upon the procedures followed under the Administrative Review Act, the Illinois rules governing appeals, and the Federal Rules of Appellate Procedure which relate to review of administrative orders by an appellate court. The orders of many Federal agencies have

long been directly reviewed by the United States Courts of Appeals.

Only a few provisions of the rule require comment.

Since the petition for review serves the function of the notice of appeal, and nothing else, it should in form be as simple as the notice of appeal, as it is in the Federal practice. The statement of the questions to be presented for review is left to the appellant's brief as in other appeals and for the same reasons.

The Illinois practice of permitting parties before the administrative agency to become parties before the Appellate Court merely on filing of a notice of appearance is preferable to the Federal practice of requiring a motion to intervene.

Under both Illinois and Federal appellate practice and under the Illinois Administrative Review Act the entire record before the agency is the record before the reviewing court, wherever that record may be at any particular time. The rule is designed to insure that the record will be available to the parties when needed for the preparation of briefs, as under present Rule 325 for ordinary appeals, and to the reviewing court when it is needed there. Any portions of the record not already filed in the Appellate Court shall be transmitted thereto on request of the court, the agency, or any party. Since the report of the proceedings before the administrative agency will normally have been transcribed and be available by the time of the administrative decision, a shorter period for filing the record is allowed than in other Illinois appeals. This also conforms to the public interest in expediting review of these cases.

In 1984 subparagraph (d) was amended to require that the agency should arrange, prepare, bind, and certify the record, as near as possible, in the way the record on appeal must be prepared under Rule 324.

Commentary  
(December 17, 1993)

Paragraph (h) is included to indicate that petitions for enforcement of labor board orders may be brought in the Appellate Court (see *Central City Education Association v. Illinois Educational Labor Relations Board* (1992), 149 Ill. 2d 496) and are treated as motions before the reviewing court without the need for formal briefing.