

# Chapter 9.

## Judicial Review

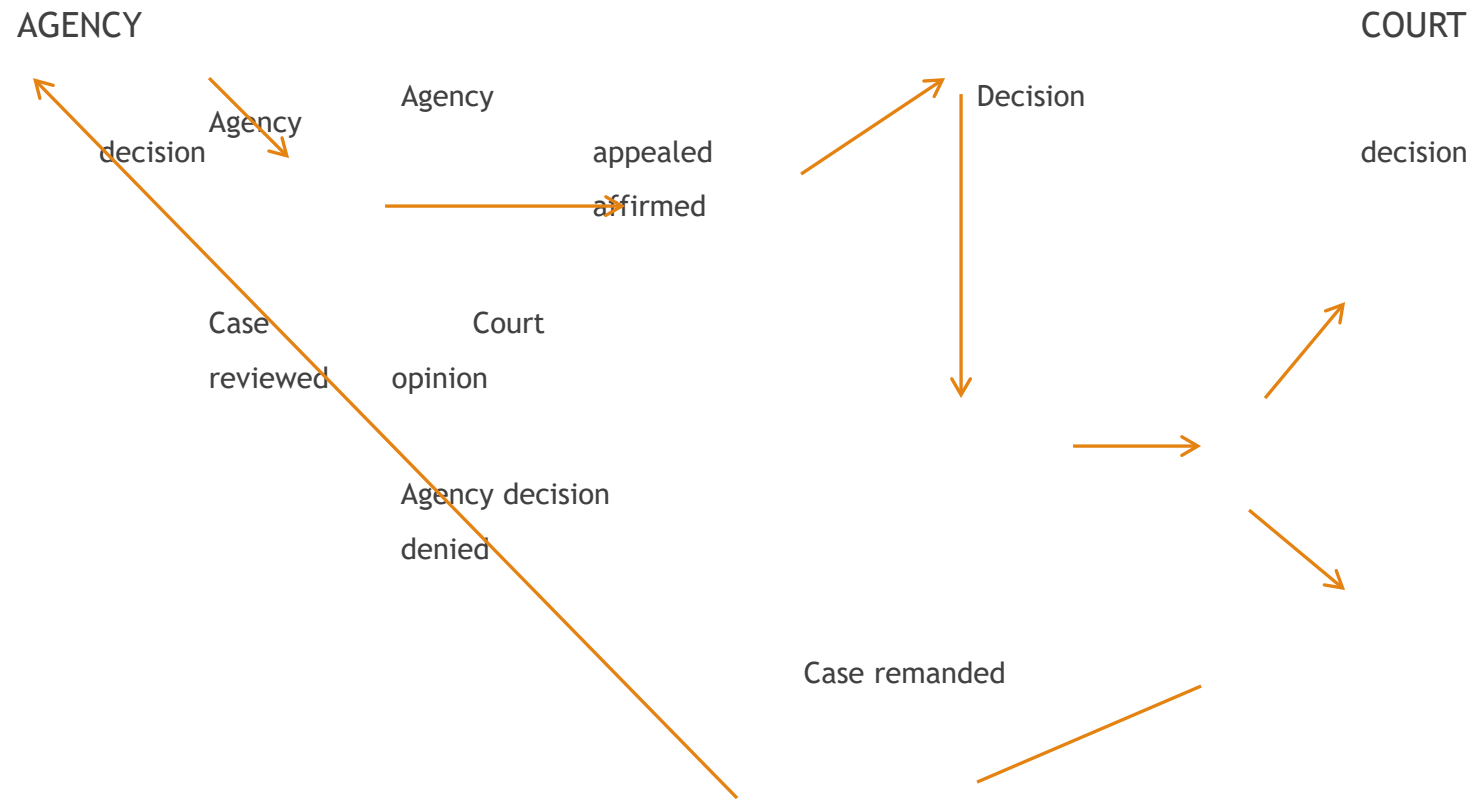
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In this chapter, you will learn:

- What is judicial review?
- What are the requirements for appeal?
- What is a silent statute?
- What is preclusion?
- What are the four judicial review procedures?
- What is scope of review?
- When is judicial review denied?

# Judicial Review

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# Federal Courts

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The Supreme Court of the United States

United States Courts of Appeals

United States District Courts

United States Court of Federal Claims

United States Court of Appeals for the Federal Circuit

United States Court of International Trade

Territorial Courts

United States Court of Military Appeals

United States Court of Veterans Appeals

# Routes to Judicial Review

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## Social Security Administration



## Federal Trade Commission



# Routes to Judicial Review

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## A State Agency

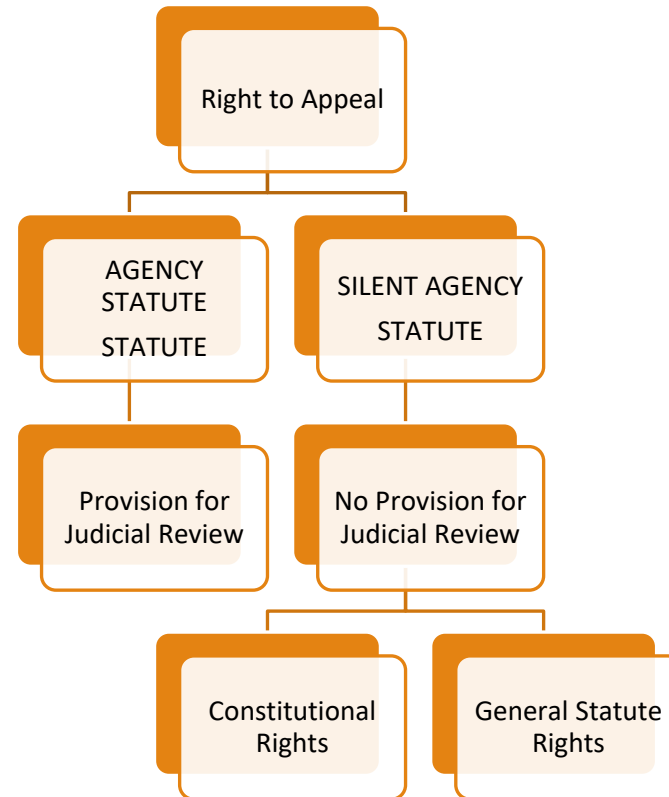


(if a federal question)



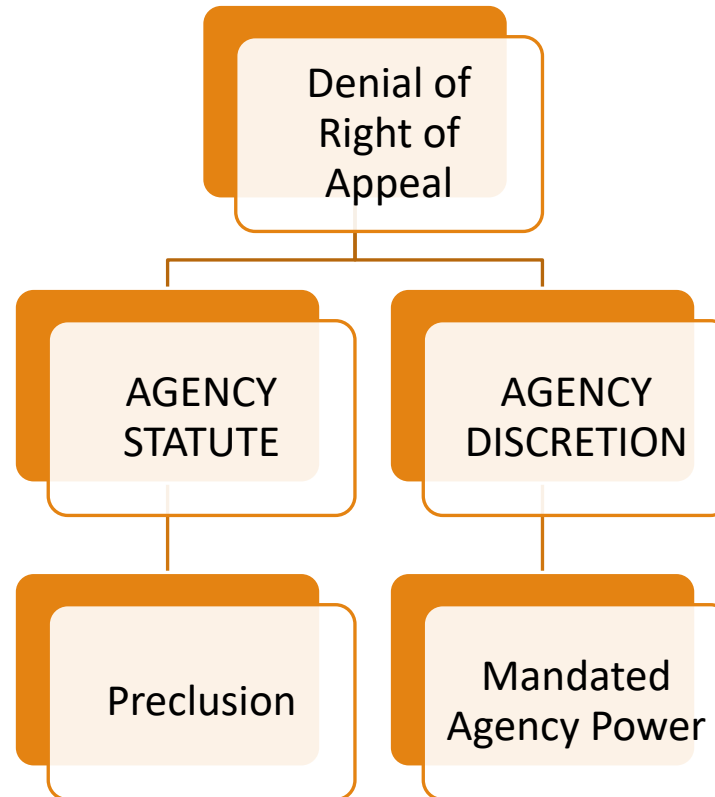
# Right to Appeal

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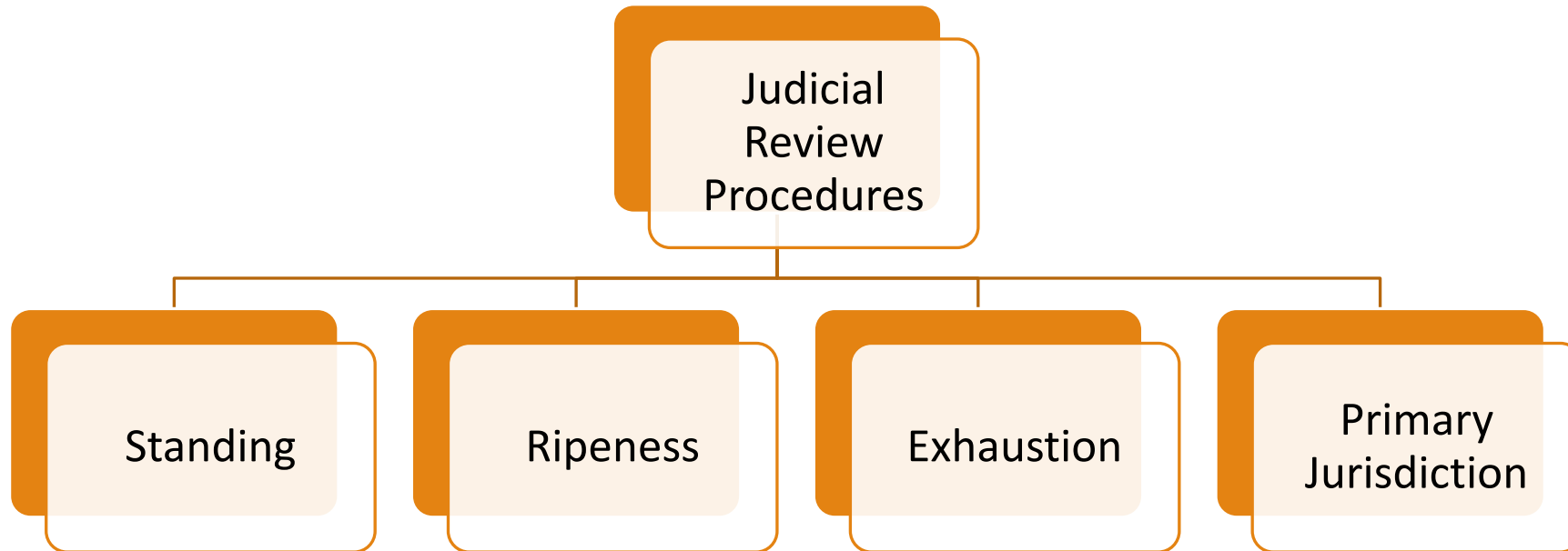
# Denial of Right

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# Judicial Review Procedures

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# Procedural Questions

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## Standing

- Who may seek judicial review?
- Did the party suffer an actual injury or a threat of an injury?
- Will the injury be redressed by a favorable judicial opinion?
- Are the interests within the rights protected by statute or constitution?

# Procedural Questions

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## Ripeness

- Has the controversy reached maturity?

## Exhaustion

- Have all administrative agency procedures been utilized?
- Have all administrative remedies been addressed?

## Primary Jurisdiction

- Does the administrative agency have the needed expertise in the field?
- Does the jurisdiction lie within the agency?

# Scope of Review

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## Limitations

- Agency record
- Issues raised
- Reasons for agency decisions

## Extent

- Relevant questions of law
- Procedures
- Entire Agency Record

## Law/Fact

- Rightness/  
Correctness
- Substantial Evidence
- Reasonableness

# Chapter 10. Paralegalism in Administrative Law

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This chapter answers the following questions:

- What are the career opportunities for administrative law paralegals in governmental agencies?
- What are the career opportunities for administrative law paralegals in law offices?
- What are the career opportunities for administrative law paralegals in private businesses?

# Chapter 10. Paralegalism in Administrative Law

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This chapter also answers the following questions

- What are the procedural rules governing administrative law paralegals practice in administrative agency hearings?
- What skills and practical experience are desirable for administrative law paralegals?
- What are the duties of administrative law paralegals in various areas of administrative law practice? :

# Governmental Agencies

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The federal government has over 50 large administrative agencies dealing with a wide variety of topics

In addition to agencies embedded in the executive branch of the government, there are “independent” agencies such as the Interstate Commerce Commission

# Governmental Agencies

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Many positions that are not called “paralegals,” but require a legal background but not a law degree.

Some may use legal terms such as “legal assistant” or “legal specialist,” but others will not.

# Governmental Agencies

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Many other positions that do not require specific legal knowledge, but do require the analytical and critical thinking, writing, and other skills so integral to the paralegal profession.

Be creative in your job search and be open to positions that will “get you in the door.”



# Law Firms

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## Representing clients

- Compliance
- Informal and formal proceedings
- Rulemaking advocacy

## Internal firm compliance

# Private Businesses

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## Compliance

- Human Resources
- Environmental
- Licensing

# Paralegals in Hearings

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## APA Section 552(b)

- if permitted by the agency
- other duly qualified representative

## Can represent clients without attorney supervision

- There are advantages and disadvantages to this.

# ABA Guidelines

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The American Bar Association proposed model guidelines to assist lawyers in utilizing paralegals.

These guidelines address professional conduct, delegation of work, legal opinions, client confidences, and conflict of interest.

The lawyer is responsible for the professional conduct of the paralegal while at the law firm or administrative agency.

# Skills Needed

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Administrative law paralegals require the same general skills of all paralegals, but particularly should concentrate on

- Communication
- Research
- Document drafting
- Technology

# Skill Development and Experience

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- *Pro Bono* (volunteer) work
- Internships
- Paralegal Professional Associations
- Non-legal entry positions