

Sagebrush Ecosystem Program

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STATE OF NEVADA
Sagebrush Ecosystem Program

Sagebrush Ecosystem Program Verifier Decertification Process

Should there be evidence enough to consider a verifier, certified through Nevada Administrative Code (NAC) 232.400-232.480, a risk to the integrity or workload of the Program, the following shall be completed:

1. See NAC 284.650, NRS 233B.121-150 for guidance.
2. Causes for disciplinary action are as follows:
 - a. Activity which is incompatible with a verifier’s conditions of certification, or which violates a state or federal provision.
 - b. ~~Disgraceful or discourteous personal treatment conduct of the public, staff, or other Verifiers, which impairs the performance of their own or someone else’s job or causes discredit or misrepresentation of the Program.~~
 - c. ~~Discourteous treatment of the public, staff, or other Verifiers while representing the Program.~~
 - d. ~~Incompetence, or inefficiency, or inexcusable neglect of duty that creates an undue burden on the Sagebrush Ecosystem Program.~~
 - e. ~~Insubordination or willful disobedience.~~
 - f. ~~Inexcusable neglect of duty.~~
 - g. ~~Fraud, dishonesty, or misrepresentation in securing certification (cheating or not participating in the training) to the Sagebrush Ecosystem Program, its Proponents, or the public.~~
 - h. ~~Dishonesty or willful misleading or misinformation to the Program or its Proponents.~~
 - i. ~~Abuse, damage to or waste of public equipment, property, or supplies because of inexcusable negligence or willful acts.~~
 - j. ~~Drug or alcohol use or abuse without a medical doctor’s prescription while representing the Sagebrush Ecosystem Program.~~
 - k. ~~Conviction of any criminal act involving moral turpitude, or documentation of acts of violence that arise out of or during the performance of the Verifier’s duties.~~
 - l. ~~Violation of any rule of the Sagebrush Ecosystem Program.~~
 - m. ~~Falsification or misrepresentation of any records.~~
 - n. ~~Misrepresentation of official capacity or authority.~~
 - o. ~~Violation of any safety rule adopted or enforced by the Program.~~
 - p. ~~Any act of violence which arises out of or during the performance of the Verifier’s duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.~~
 - q. ~~Failure to participate in any investigation in which the Verifier is the subject of~~ alleged

~~discrimination, including, without limitation, an investigation concerning sexual harassment, or any other investigation authorized by the Sagebrush Ecosystem Program.~~

~~r. Failure to participate in an administrative investigation authorized by the Program.~~

3. Should the SEP Program Manager become aware of any action of a Verifier listed above, the Program Manager will ~~issue a verbal warning verbally inform and then by written, electronic, or paper means~~ the Verifier ~~of that details~~ the cause for disciplinary action and required improvement.

~~Depending on the action, full retraining and retesting may be required.~~

~~a. The verbal warning will be documented by the Sagebrush Ecosystem Program via written, electronic, or paper means, and a copy of such documentation will be supplied to the Verifier.~~

~~b. This step may be done multiple times for various offenses/causes for disciplinary actions.~~

~~a.c. - Should the Verifier contest any allegations brought forth against them, they are able to request a meeting with the Finder of Fact to contest the step in the decertification process within 30 days of the receipt of the verbal warning.~~

4. If the ~~oral-verbal~~ warning does not cause a correction of the action, various offenses cumulatively add up to a more concerning issue, or a more severe initial action is warranted, a written warning must be sent to the Verifier by means of a delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received.

a. The warning must outline the concerns and give the Verifier a timeline to show improvement.

b. If the notice is returned without having been received by the Verifier, the Verifier's date of receipt shall be deemed to be the third day after the date the notice was sent.

~~b.c. Should the Verifier contest any allegations brought forth against them, they are able to request a meeting with the Finder of Fact to contest the step in the decertification process within 30 days of the receipt of the written warning.~~

5. If the proper corrective action is not completed within the timeframe set above, the Verifier will be notified of suspension of their certification, with the possibility of a full decertification, and a disciplinary hearing will be set with the Deputy Director of DCNR as the Finder of Fact pursuant to NRS 233B.121-150, or if the Verifier so requests, the Finder of Fact may be changed to the Sagebrush Ecosystem Council (SEC), and the hearing can be held at the next public SEC meeting, or if the SEC chooses, a special meeting, but in all circumstances in compliance with the open meeting laws.

a. The Verifier must be given at least 10 working days' notice of the hearing by means of a delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received.

b. The notice must include:

i. A statement of the time, place, and nature of the hearing.

ii. A statement of the legal authority and jurisdiction under which the hearing is to be held.

iii. A reference to the particular sections of the statutes and regulations involved.

iv. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.

c. If the notice is returned without having been received by the Verifier, the Verifier's date of

receipt shall be deemed to be the third day after the date the notice was sent.

- d. The written notice must inform the Verifier that a disciplinary hearing has been scheduled on his or her behalf and specify the date, time, and place of the hearing.
- e. If the Program Manager and the Verifier agree, the date of the disciplinary hearing may be changed.

~~f. If the Verifier so requests, the Finder of Fact may be changed to the Sagebrush Ecosystem Council, and the hearing can be held at the next public meeting.~~

~~g.f.~~ If the Verifier does not understand the reasons for the suspension or decertification or the procedures related to disciplinary actions, the Verifier may seek an explanation from the Sagebrush Ecosystem Program or another person in the agency familiar with the procedure.

~~h.g.~~ The Verifier may waive the right to a disciplinary hearing in writing. If so, the date of decertification is effective immediately.

~~i.h.~~ The Finder of Fact makes the final decision at the hearing, and a copy of the final decision will be provided in writing by means of a delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received to the Verifier and, if applicable, the effective date of decertification.

6. The procedures specified above need not be followed before decertifying a Verifier if the circumstances give the Sagebrush Ecosystem Program a reasonable cause to believe that the certification of the Verifier poses a threat to life, limb or property or may be ~~seriously~~ detrimental to the interests of the State or the Sagebrush Ecosystem Program's Proponents.

7. The Program Manager may reinstate a former Verifier following his or her decertification from the Sagebrush Ecosystem Program after a period of 5 years, so long as the subject Verifier formerly reapplies and abides by all the requirements for Verifier certification. Additionally, the Verifier needs to have completed and/or finished any requirements that the Finder of Fact from the decertification hearing required of the Verifier in fact-finder's written findings before the Verifier may apply for recertification.

- a. ~~A person re-earning verification after decertification, will they may enter be subject to a 5-year probationary period in which where any disciplinary action will immediately get trigger initiate the Decertification Process at to step 5 in the Decertification Process. The Program Manager may, in their discretion, decline to re-certify a Verifier if the Verifier was originally de-certified for a serious offense that would cause a reasonable Program Manager to conclude that the Program and/or public would be put in physical, financial, and/or or other serious danger due to the former verifier's actions.~~

~~8. The Program Manager may refuse to certify an applicant or, after examination, may refuse to certify an eligible person who:~~

- ~~a. Lacks any of the preliminary requirements established for the examination for the certificate for which the applicant or eligible person applies.~~
- ~~b. Has made a false statement of any material fact.~~
- ~~c. Has practiced, or attempted to practice, any deception or fraud in the certificate or examination of the applicant or eligible person, or in securing the certification of the applicant or eligible person.~~

~~9. When the Program Manager refuses to examine an applicant or, after an examination, refuses to certify an eligible person, the applicant or eligible person may request the Program Manager to furnish to the applicant or eligible person a statement of the reasons for the refusal to examine or the refusal to certify,~~

as the case may be. The Program Manager shall furnish the statement upon request.

a.b. If the Program Manager refuses to examine an applicant or, after an examination, refuses to certify an eligible person, the applicant or eligible person may make an appeal to the Finder of Fact. If the Finder of Fact finds that the Program Manager is in error in refusing to examine an applicant or in refusing to certify an eligible person, the Finder of Fact shall order the Program Manager to examine or certify, and the Program Manager shall comply.

DISCIPLINARY PROCEDURES

NAC 284.650 Causes for disciplinary or corrective action. ([NRS 284.065](#), [284.155](#), [284.383](#), [284.385](#)) Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violates a provision of [NAC 284.653](#) or [284.738](#) to [284.771](#), inclusive.
2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.
3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.
4. Discourteous treatment of the public or fellow employees while on duty.
5. Incompetence or inefficiency.
6. Insubordination or willful disobedience.
7. Inexcusable neglect of duty.
8. Fraud in securing appointment.
9. Prohibited political activity.
10. Dishonesty.
11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.
12. Drug or alcohol abuse as described in [NRS 284.4062](#) and [NAC 284.884](#).
13. Conviction of any criminal act involving moral turpitude.
14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription or any other illegally used substances while on duty.
15. Unauthorized absence from duty or abuse of leave privileges.
16. Violation of any rule of the Commission.
17. Falsification of any records.
18. Misrepresentation of official capacity or authority.
19. Violation of any safety rule adopted or enforced by the employee's appointing authority.
20. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his or her appointing authority.
21. Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.
22. Failure to participate in any investigation of alleged discrimination, including, without limitation, an investigation concerning sexual harassment.
23. Failure to participate in an administrative investigation authorized by the employee's appointing authority.
24. Failure to report the suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license when required pursuant to [NAC 284.652](#).

[Personnel Div., Rule XII § D, eff. 8-11-73] — (NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 12-26-91; 7-1-94; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; R147-06, 12-7-2006; R118-17, 10-25-2018)

ADJUDICATION OF CONTESTED CASES

NRS 233B.121 Notice of hearing in contested case; contents of notice; representation by counsel; opportunity to respond and present evidence and argument; fees and mileage for witnesses; informal disposition; voluntary surrender of license in contested case deemed disciplinary action; contents of record; transcriptions; findings of fact.

1. In a contested case, all parties must be afforded an opportunity for hearing after reasonable notice.
2. The notice must include:
 - (a) A statement of the time, place and nature of the hearing.
 - (b) A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - (c) A reference to the particular sections of the statutes and regulations involved.
 - (d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.
3. Any party is entitled to be represented by counsel.

4. Opportunity must be afforded all parties to respond and present evidence and argument on all issues involved. An agency may by regulation authorize the payment of fees and reimbursement for mileage to witnesses in the same amounts and under the same conditions as for witnesses in the courts of this state.

5. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. If an informal disposition is made, the parties may waive the requirement for findings of fact and conclusions of law.

6. The voluntary surrender of a license in a contested case shall be deemed to constitute disciplinary action against the licensee.

7. The record in a contested case must include:

(a) All pleadings, motions and intermediate rulings.

(b) Evidence received or considered.

(c) A statement of matters officially noticed.

(d) Questions and offers of proof and objections, and rulings thereon.

(e) Proposed findings and exceptions.

(f) Any decision, opinion or report by the hearing officer presiding at the hearing.

8. Oral proceedings, or any part thereof, must be transcribed on request of any party. The party making the request shall pay all the costs for the transcription.

9. Findings of fact must be based exclusively on a preponderance of the evidence and on matters officially noticed.

(Added to NRS by [1967, 808](#); A [1977, 56, 1062](#); [1985, 350](#); [2015, 707](#))

NRS 233B.122 Certain members of agency prohibited from taking part in adjudication; replacement of disqualified officer.

1. No agency member who acts as an investigator or prosecutor in any contested case may take any part in the adjudication of such case.

2. If an officer of an agency disqualifies himself or herself or is disqualified from participating in the adjudication of any contested case in which a decision will be rendered which is subject to judicial review, the officer shall send within 3 working days after the disqualification a notice of it to the authority which appointed him or her to the agency. The appointing authority shall within 5 working days after receiving the notice appoint a person to serve in the place of the disqualified officer only for the purpose of participating in the adjudication of the contested case.

3. The person appointed under subsection 2 shall have the same qualifications required by law of the officer whom the person replaces and is entitled to the same salary and per diem and travel expenses allowed to that officer.

(Added to NRS by [1967, 808](#); A [1977, 661](#))

NRS 233B.123 Evidence. In contested cases:

1. Irrelevant, immaterial or unduly repetitious evidence must be excluded. Evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and must be noted in the record. Subject to the requirements of this subsection, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2. Documentary evidence may be received in the form of authenticated copies or excerpts. Upon request, parties must be given an opportunity to compare the copy with the original.

3. Every witness shall declare, by oath or affirmation, that he or she will testify truthfully.

4. Each party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination, impeach any witness, regardless of which party first called the witness to testify, and rebut the evidence against him or her.

5. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the specialized knowledge of the agency. Parties must be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they must be afforded an opportunity to contest the material so noticed. The experience, technical competence and specialized knowledge of the agency may be utilized in the evaluation of the evidence.

(Added to NRS by [1967, 808](#); A [1977, 57](#); [1997, 1603](#); [2015, 707](#))

NRS 233B.1233 Administration of oath or affirmation to witness. Unless limited by a specific statute, any person authorized to preside over a hearing in a contested case may administer oaths or affirmations to witnesses appearing before him or her in the hearing.

(Added to NRS by [1981, 80](#))

NRS 233B.123 Witness who is person with communications disability entitled to services of interpreter at hearing. A witness during his or her testimony at a hearing of a contested case, who is a person with a communications disability as defined in [NRS 50.050](#), is entitled to the services of an interpreter at public expense in accordance with the provisions of [NRS 50.050](#) to [50.053](#), inclusive. The interpreter must be appointed by the person who presides at the hearing.

(Added to NRS by [1979, 657](#); A [2001, 1777](#); [2007, 172](#))

NRS 233B.124 Procedure when majority of agency's officials rendering final decision have not heard case or read record: Service and contents of proposal for decision; opportunity to file exceptions and present briefs and oral argument; waiver. Where, in a contested case, a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file, within 20 days, exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties by written stipulation may waive compliance with this section.

(Added to NRS by [1967, 809](#))

NRS 233B.125 Adverse decision or order required to be in writing or stated on record; contents of final decision; standard of proof; notice and copies of decisions and orders. A decision or order adverse to a party in a contested case must be in writing or stated in the record. Except as provided in subsection 5 of [NRS 233B.121](#), a final decision must include findings of fact and conclusions of law, separately stated. Findings of fact and decisions must be based upon a preponderance of the evidence. Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency regulations, a party submitted proposed findings of fact before the commencement of the hearing, the decision must include a ruling upon each proposed finding. Parties must be notified either personally or by certified mail of any decision or order. Upon request a copy of the decision or order must be delivered or mailed forthwith to each party and to the party's attorney of record.

(Added to NRS by [1967, 809](#); A [1985, 351](#); [2015, 708](#))

NRS 233B.126 Limitations on communications of agency's members or employees rendering decision or making findings of fact and conclusions of law. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or the party's representative, except upon notice and opportunity to all parties to participate. An agency member may, subject to the provisions of [NRS 233B.123](#):

1. Communicate with other members of the agency.
2. Have the aid and advice of one or more personal assistants.

(Added to NRS by [1967, 809](#))

NRS 233B.127 Licenses: Applicability of provisions governing contested cases to grant, deny or renew; expiration notice and opportunity to show compliance required before adverse action by agency; summary suspension.

1. The provisions of [NRS 233B.121](#) to [233B.150](#), inclusive, do not apply to the grant, denial or renewal of a license unless notice and opportunity for hearing are required by law to be provided to the applicant before the grant, denial or renewal of the license.

2. When a licensee has made timely and sufficient application for the renewal of a license or for a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

3. No revocation, suspension, annulment or withdrawal of any license is lawful unless, before the institution of agency proceedings, the agency gave notice by certified mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. An agency's order of summary suspension may be issued by the agency or by the Chair of the governing body of the agency. If the order of summary suspension is issued by the Chair of the governing body of the agency, the Chair shall not participate in any further proceedings of the agency relating to that order. Proceedings relating to the order of summary suspension must be instituted and determined within 45 days after the date of the order unless the agency and the licensee mutually agree in writing to a longer period.

(Added to NRS by [1967, 810](#); A [2005, 1002](#); [2007, 557](#); [2009, 651](#); [2015, 708](#))

NRS 233B.130 Judicial review; requirements for petition and cross-petition; statement of intent to participate; petition for rehearing or reconsideration; service; dismissal of certain agencies and persons from proceedings concerning final decision of State Contractors' Board; exclusive means.

1. Any party who is:
 - (a) Identified as a party of record by an agency in an administrative proceeding; and
 - (b) Aggrieved by a final decision in a contested case,↪ is entitled to judicial review of the decision. Where appeal is provided within an agency, only the decision at the highest level is reviewable unless a decision made at a lower level in the agency is made final by statute. Any preliminary, procedural or intermediate act or ruling by an agency in a contested case is reviewable if review of the final decision of the agency would not provide an adequate remedy.
2. Petitions for judicial review must:
 - (a) Name as respondents the agency and all parties of record to the administrative proceeding;
 - (b) Be instituted by filing a petition in the district court in and for Carson City, in and for the county in which the aggrieved party resides or in and for the county where the agency proceeding occurred;
 - (c) Be served upon:
 - (1) The Attorney General, or a person designated by the Attorney General, at the Office of the Attorney General in Carson City; and
 - (2) The person serving in the office of administrative head of the named agency; and
 - (d) Be filed within 30 days after service of the final decision of the agency.↪ Cross-petitions for judicial review must be filed within 10 days after service of a petition for judicial review.
3. The agency and any party desiring to participate in the judicial review must file a statement of intent to participate in the petition for judicial review and serve the statement upon the agency and every party within 20 days after service of the petition.
4. A petition for rehearing or reconsideration must be filed within 15 days after the date of service of the final decision. An order granting or denying the petition must be served on all parties at least 5 days before the expiration of the time for filing the petition for judicial review. If the petition is granted, the subsequent order shall be deemed the final order for the purpose of judicial review.
5. The petition for judicial review and any cross-petitions for judicial review must be served upon the agency and every party within 45 days after the filing of the petition, unless, upon a showing of good cause, the district court extends the time for such service. If the proceeding involves a petition for judicial review or cross-petition for judicial review of a final decision of the State Contractors' Board, the district court may, on its own motion or the motion of a party, dismiss from the proceeding any agency or person who:
 - (a) Is named as a party in the petition for judicial review or cross-petition for judicial review; and
 - (b) Was not a party to the administrative proceeding for which the petition for judicial review or cross-petition for judicial review was filed.
6. The provisions of this chapter are the exclusive means of judicial review of, or judicial action concerning, a final decision in a contested case involving an agency to which this chapter applies.

(Added to NRS by [1965, 966](#); A [1969, 318](#); [1975, 495](#); [1977, 57](#); [1981, 80](#); [1989, 1651](#); [1991, 465](#); [2003, 1904](#); [2005, 1003](#); [2007, 558](#); [2015, 709](#))

NRS 233B.131 Transmittal of record of proceedings to reviewing court by party and agency; shortening of or corrections or additions to record; additional evidence; modification of findings and decision by agency based on additional evidence.

1. Within 45 days after the service of the petition for judicial review or such time as is allowed by the court:
 - (a) The party who filed the petition for judicial review shall transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency.
 - (b) The agency that rendered the decision which is the subject of the petition shall transmit to the reviewing court the original or a certified copy of the remainder of the record of the proceeding under review.↪ The record may be shortened by stipulation of the parties to the proceedings. A party unreasonably refusing to stipulate to limit the record, as determined by the court, may be assessed by the court any additional costs. The court may require or permit subsequent corrections or additions to the record.
2. If, before submission to the court, an application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence and any rebuttal evidence be taken before the agency upon such conditions as the court determines.

3. After receipt of any additional evidence, the agency:
 - (a) May modify its findings and decision; and
 - (b) Shall file the evidence and any modifications, new findings or decisions with the reviewing court.(Added to NRS by [1989, 1649](#); A [2015, 710](#))

NRS 233B.133 Form and deadlines for serving and filing memorandum of points and authorities and replies; extensions; request for hearing or matter deemed submitted.

1. A petitioner or cross-petitioner who is seeking judicial review must serve and file a memorandum of points and authorities within 40 days after the agency gives written notice to the parties that the record of the proceeding under review has been filed with the court.
2. The respondent or cross-petitioner shall serve and file a reply memorandum of points and authorities within 30 days after service of the memorandum of points and authorities.
3. The petitioner or cross-petitioner may serve and file reply memoranda of points and authorities within 30 days after service of the reply memorandum.
4. Within 7 days after the expiration of the time within which the petitioner is required to reply, any party may request a hearing. Unless a request for hearing has been filed, the matter shall be deemed submitted.
5. All memoranda of points and authorities filed in proceedings involving petitions for judicial review must be in the form provided for appellate briefs in [Rule 28](#) of the Nevada Rules of Appellate Procedure.
6. The court, for good cause, may extend the times allowed in this section for filing memoranda.
(Added to NRS by [1989, 1649](#))

NRS 233B.135 Judicial review: Manner of conducting; burden of proof; standard for review.

1. Judicial review of a final decision of an agency must be:
 - (a) Conducted by the court without a jury; and
 - (b) Confined to the record.
- ↪ In cases concerning alleged irregularities in procedure before an agency that are not shown in the record, the court may receive evidence concerning the irregularities.
2. The final decision of the agency shall be deemed reasonable and lawful until reversed or set aside in whole or in part by the court. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.
3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:
 - (a) In violation of constitutional or statutory provisions;
 - (b) In excess of the statutory authority of the agency;
 - (c) Made upon unlawful procedure;
 - (d) Affected by other error of law;
 - (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
 - (f) Arbitrary or capricious or characterized by abuse of discretion.
4. As used in this section, "substantial evidence" means evidence which a reasonable mind might accept as adequate to support a conclusion.
(Added to NRS by [1989, 1650](#); A [2015, 710](#))

NRS 233B.140 Procedure for applying for stay of final decision; considerations by court in making ruling; provision of security by petitioner.

1. A petitioner who applies for a stay of the final decision in a contested case shall file and serve a written motion for the stay on the agency and all parties of record to the proceeding at the time of filing the petition for judicial review.
2. In determining whether to grant a stay, the court shall consider the same factors as are considered for a preliminary injunction under [Rule 65](#) of the Nevada Rules of Civil Procedure.
3. In making a ruling, the court shall:
 - (a) Give deference to the trier of fact; and
 - (b) Consider the risk to the public, if any, of staying the administrative decision.
- ↪ The petitioner must provide security before the court may issue a stay.
(Added to NRS by [1967, 810](#); A [1977, 58](#); [1989, 1652](#))

NRS 233B.150 Appeal from final judgment of district court. An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to [Section 4 of Article 6](#) of the Nevada Constitution. The appeal shall be taken as in other civil cases.
(Added to NRS by [1967, 811](#); A [2013, 1768](#))