

# INSTRUCTIONS FOR ADMINISTRATIVE AGENCY

## Preparation of Agency Record

1. When a notice of appeal from an administrative agency decision is filed and all other filing requirements are met, the superior court clerk will send the agency *Notice for Preparation of Record in an Administrative Appeal* (form AP-310).
2. **Within 10 days** after receiving the AP-310 notice from the court, the agency must file a list of names and addresses of all counsel and pro se parties who appeared before the agency. Use *Agency's List of Parties & Attorneys on Appeal* (form [AP-311](#)).
3. The agency must also prepare and transmit the agency file to the court. This must happen within 40 days, so the agency should begin preparations as soon as possible.<sup>1</sup> The agency must page number the agency file as follows:
  - a. Place the page number on the bottom right corner of each page.
  - b. Number **all** documents in the case file (except any transcripts or depositions), including documents filed after the notice of appeal, in the following order:
    - (1) Right side of file, start at the top of the file and number in a single number sequence each page consecutively down. If there are no documents on the right, begin on the left side of the file.
    - (2) Left side of file, start at the top of the file with the next number after the end of step 1 above, and number in a single number sequence each page consecutively down.
  - c. Multi-Volume Files: Start with Volume #1 and completely page number each volume in consecutive order. Do not start over at page 1 for each volume, but use the next consecutive number to start the next volume. Every single page in the agency record should have a unique page number.

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<sup>1</sup> The agency does not need to prepare the record until the appellant (the party who filed the appeal) pays for the reasonable cost of preparing it, unless otherwise ordered by the court. The appellant and the agency may, however, agree to share or waive the cost if they wish. The agency is responsible for notifying the appellant of the cost amount and for arranging the method to collect the money. If the appellant fails to pay, notify the court by letter or copy of the agency notice sent to the appellant. If the record is not received within 40 days, the court will give notice to the appellant that the appeal will be dismissed unless the record is submitted to the court.

- d. Confidential Documents:
- (1) After numbering the non-confidential documents in the file, start with the next number and number all pages of the confidential documents consecutively from the top down.
  - (2) All confidential documents must be placed in an envelope. The front of the envelope must contain the following information:
    - (a) case name
    - (b) case number
    - (c) name of the document(s) in the envelope
  - (3) Mark or stamp the envelope "Confidential" and note the page numbers of the documents in the envelope.
  - (4) Include on both the document and the envelope if any party is not entitled to see the document. For example: "Defendant's access to document prohibited."
- e. Sealed Documents: Put a single page number on the envelope only. Use the next number in sequence (after the end of any confidential documents). Do **not** open the sealed envelope.
- f. Documents Filed after Transmittal to the Court: Once the copy of the file has been forwarded to superior court (see section 4 below), documents subsequently filed with the agency need not be numbered and forwarded unless requested by the superior court. If the court does make this request, page number the new documents as follows:
- (1) Determine the last page number used in the file (be sure to include page numbers used for any confidential or sealed documents). Starting with the next number, page number the new documents in consecutive order. However, since the new documents will be on top of the other documents and not in chronological order, place a colored hard-stock paper divider under the new documents to separate them from the older documents.
  - (2) Forward copies of the page numbered documents to the superior court with a new *Transmittal of Agency Record* (form [AP-312](#)).
- g. Cases Previously On Appeal: Determine the last page number given in the file (be sure to include page numbers used for any confidential or sealed documents). Starting with the next number, continue to page number the file in consecutive order from the documents already numbered. Do **not** start numbering the agency file with a new page 1.

NOTE: Transcripts and depositions are page numbered at the time they are prepared. Do **not** include these documents when page numbering the agency file.

4. **Within 40 days** after receiving the AP-310 notice from the court, the agency must send items a through g listed below to the superior court where the appeal was filed. It is not necessary to prepare a table of contents.
  - a. Transmittal cover sheet. The agency can use *Transmittal of Agency Record* (form [AP-312](#)) or a similar agency form.
  - b. A copy of the page numbered agency file.<sup>2</sup>
  - c. A copy of the transcript of the agency proceedings. The appellant is still responsible for selecting the transcriber and paying for the transcript. The original transcript must be filed with the agency.
  - d. All documentary and photographic exhibits not larger than 8.5" x 14". All other exhibits should be retained by the agency, unless specifically requested by the court.
  - e. A list of the exhibits being transmitted (from section d above).
  - f. A list of exhibits retained by the agency (from section d above).
  - g. All depositions filed with the agency.

NOTE: For purposes of these instructions, exhibits refer to documents, photographs, or other physical objects marked as exhibits and submitted at an administrative agency hearing as evidence. Exception: If all documents in the agency file are marked as exhibits, the agency only needs to list non-documentary exhibits (from sections e and f).

5. At the conclusion of the appeal, the superior court clerk will return the agency record and a copy of the appeal decision to the agency.

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<sup>2</sup> The main reason for the court getting a copy and the agency keeping the original is to ensure that both parties have access to the file or a copy of it while preparing their briefs. However, if both parties are located near the court, and the agency wishes to eliminate the cost of copying the agency file, the agency may ask the court to allow it to send the original file, with no copy kept by the agency.