

63G-3-602 Judicial challenge to administrative rules.

- (1)
 - (a) Any person aggrieved by a rule may obtain judicial review of the rule by filing a complaint with the county clerk in the district court where the person resides or in the district court in Salt Lake County.
 - (b) Any person aggrieved by an agency's failure to comply with Section 63G-3-201 may obtain judicial review of the agency's failure to comply by filing a complaint with the clerk of the district court where the person resides or in the district court in Salt Lake County.
- (2)
 - (a) Except as provided in Subsection (2)(b), a person seeking judicial review under this section shall exhaust that person's administrative remedies by complying with the requirements of Section 63G-3-601 before filing the complaint.
 - (b) When seeking judicial review of a rule, the person need not exhaust that person's administrative remedies if:
 - (i) less than six months has passed since the date that the rule became effective and the person had submitted verbal or written comments on the rule to the agency during the public comment period;
 - (ii) a statute granting rulemaking authority expressly exempts rules made under authority of that statute from compliance with Section 63G-3-601; or
 - (iii) compliance with Section 63G-3-601 would cause the person irreparable harm.
- (3)
 - (a) In addition to the information required by the Utah Rules of Civil Procedure, a complaint filed under this section shall contain:
 - (i) the name and mailing address of the plaintiff;
 - (ii) the name and mailing address of the defendant agency;
 - (iii) the name and mailing address of any other party joined in the action as a defendant;
 - (iv) the text of the rule or proposed rule, if any;
 - (v) an allegation that the person filing the complaint has either exhausted the administrative remedies by complying with Section 63G-3-601 or met the requirements for waiver of exhaustion of administrative remedies established by Subsection (2)(b);
 - (vi) the relief sought; and
 - (vii) factual and legal allegations supporting the relief sought.
 - (b)
 - (i) The plaintiff shall serve a summons and a copy of the complaint as required by the Utah Rules of Civil Procedure.
 - (ii) The defendants shall file a responsive pleading as required by the Utah Rules of Civil Procedures.
 - (iii) The agency shall file the administrative record of the rule, if any, with its responsive pleading.
- (4) The district court may grant relief to the petitioner by:
 - (a) declaring the rule invalid, if the court finds that:
 - (i) the rule violates constitutional or statutory law or the agency does not have legal authority to make the rule;
 - (ii) the rule is not supported by substantial evidence when viewed in light of the whole administrative record; or
 - (iii) the agency did not follow proper rulemaking procedure;
 - (b) declaring the rule nonapplicable to the petitioner;

- (c) remanding the matter to the agency for compliance with proper rulemaking procedures or further fact-finding;
 - (d) ordering the agency to comply with Section 63G-3-201;
 - (e) issuing a judicial stay or injunction to enjoin the agency from illegal action or action that would cause irreparable harm to the petitioner; or
 - (f) any combination of Subsections (4)(a) through (e).
- (5) If the plaintiff meets the requirements of Subsection (2)(b), the district court may review and act on a complaint under this section whether or not the plaintiff has requested the agency review under Section 63G-3-601.

Renumbered and Amended by Chapter 382, 2008 General Session