

# If at First You Don't Try, You Won't Succeed: The Importance of Exhausting Your Administrative Remedies

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**Seeking legal relief in court can be a lot more intimidating than asking a teacher to settle a playground argument, but in both cases the first question you may be asked is 'did you try to work it out first?'**

The same tactic your parents or teachers used to save a few minutes of their time applies in our court system—but the consequences for prematurely seeking the court's help can be more severe. In the area of administrative law, where an individual or a company runs afoul of a government agency, the concept of "exhaustion of administrative remedies" plays a key role in determining whether a judge will hear your case or send you away without your day in court because you didn't try to "work it out." And while it may have been an easy task on the playground to come back after trying to resolve the spat, dismissal in court can seriously harm your chance of obtaining relief from whatever dispute brought you there in the first place.

## **Exhaustion of Administrative Remedies**

The requirement to "exhaust administrative remedies" simply means the obligation to use whatever non-judicial appeals or review processes a government agency has in place to challenge its determinations and rulings and obtain a final decision by the government agency before you contest that decision in court. It's a rule meant to free the courts from wasting resources required to review agency decisions that the agency may well have changed if its appeal procedures had been followed.

The principle is simple, but the practice can be challenging. Some government decisions, whether a city decision to rezone property, a state health agency decision to decline care, or a federal agency determination of noncompliance with a federal rule or law, can come attached to a complicated set of procedures for agency review that must be carefully followed before you will be permitted into the courthouse.

## **The Consequences of Not Exhausting Your Administrative Review Options**

Despite the possible complexity of bringing a challenge of an agency decision before the agency, exhaustion of administrative remedies is important because the consequences for sidestepping them and seeking early judicial review are severe. North Carolina courts have been clear that they simply have no jurisdiction to hear cases brought before state administrative remedies are exhausted. A determination of lack of jurisdiction

leads to dismissal and, depending on the timing of the case, dismissal may mean that the claim can never be brought in court again even if the administrative remedies are ultimately exhausted or no longer available. The possibility of losing your claim makes it essential that you know what remedies are available through the agency administrative process and pursue them within the appropriate timelines. These processes may not be readily apparent and can be difficult to understand without guidance, but an attorney can explain them to you and guide you past any pitfalls on the way to your day in court.

## **Conclusion**

The courts are typically a place of last resort, and to preserve your right to get into court, it's important to remember that the courts truly must be "last." Work with an attorney to exhaust all of your administrative remedies so that when you do arrive in front of a judge you are not turned away because you didn't first try to "work it out."

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