

§11006. Power of court to correct or modify record

1. Review. Judicial review shall be confined to the record upon which the agency decision was based, except as otherwise provided by this section.

A. In the case of the failure or refusal of an agency to act or of alleged irregularities in procedure before the agency which are not adequately revealed in the record, evidence thereon may be taken and determination made by the reviewing court. [PL 1977, c. 551, §3 (NEW).]

B. The reviewing court may order the taking of additional evidence before the agency if it finds that additional evidence, including evidence concerning alleged unconstitutional takings of property, is necessary to deciding the petition for review; or if application is made to the reviewing court for leave to present additional evidence, and it is shown that the additional evidence is material to the issues presented in the review, and could not have been presented or was erroneously disallowed in proceedings before the agency. After taking the additional evidence, the agency may modify its findings and decisions, and shall file with the court, to become part of the record for review, the additional evidence and any new findings or decision. [PL 1977, c. 551, §3 (NEW).]

C. If a required hearing was not held before the review proceedings were initiated, the reviewing court shall remand to the agency for a hearing in accordance with subchapter IV. [PL 1977, c. 551, §3 (NEW).]

D. In cases where an adjudicatory proceeding prior to final agency action was not required, and where effective judicial review is precluded by the absence of a reviewable administrative record, the court may either remand for such proceedings as are needed to prepare such a record or conduct a hearing de novo. [PL 1985, c. 680, §9 (RPR).]

[PL 1985, c. 680, §9 (AMD).]

2. Corrections to record. The reviewing court may require or permit subsequent corrections to the record.

[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1985, c. 680, §9 (AMD).

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