

6.1 | BRIEFS INVOLVING APPEALS FROM FINAL AGENCY DECISIONS/FINAL ORDER ON THE MERITS

If you are appealing a final agency decision or final order on the merits of the complaint that found that discrimination did not occur, your brief should focus on why you believe the agency's/Administrative Judge 's (AJ's) finding is incorrect. For example, if you believe that the agency/AJ overlooked or misinterpreted a significant fact, the brief should discuss, in detail, what specific facts were overlooked or misinterpreted and should reference specific documents or testimony in the record that support your position. If you believe the agency/AJ misapplied the law, the brief should set forth in detail the agency's/ AJ's error. If the decision involved an AJ issuing a merits decision without a hearing (summary judgment), the brief should set forth why the matter should be sent back for a hearing, such as if the AJ needs to make specific credibility determinations or if the record is not adequately developed.

Please refer to Attachment II for a sample brief involving an appeal from a final agency decision on the "merits."

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