

Disentangling the Standards of Review

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Disentangling?

- Texas Standards of Judicial Review: A *Tangled* Web?
- *Attempting* to Disentangle the Standards of Review?

Overview of Presentation

- I. Summary of APA's "substantial evidence rule" (§ 2001.174)
- II. Disentangle various standards encompassed by SE rule
- III. Judicial review in cases *not* governed by SE rule
- IV. Implications for practitioners / framework for analysis

I. Summary of APA's "SE Rule"

- APA § 2001.174 defines scope of review for contested case decisions
- Court may not substitute its judgment for agency's judgment on weight of evidence on *Qs committed to agency's discretion*
- Reverse or remand if substantial rights are prejudiced because decision is—

A-C Grounds for Reversal

- A. In violation of constitutional or statutory provision
- B. In excess of agency's statutory authority
- C. Made through unlawful procedure

D-F Grounds for Reversal

- D. Affected by other error of law
- E. Not reasonably supported by *substantial evidence*
- F. Arbitrary or capricious, or characterized by abuse of discretion or clearly unwarranted discretion

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"Disentangling the Standards of Review"