

460-RICR-00-00-1

TITLE 460 – LABOR AND TRAINING BOARD OF REVIEW

CHAPTER 00 – N/A

SUBCHAPTER 00 - N/A

PART 1 - Rules of the Board of Review

1.1 Authority

These regulations are promulgated under the authority of R.I. Gen. Laws Chapter 28-40 *et seq.*

1.2 Purpose

The purpose of these rules is to clarify procedure before the Board of Review.

1.3 Definitions

- A. “Department” means the Department of Labor and Training.
- B. “Director” means the Director of the Department of Labor and Training.
- C. “Interested party” means the director, the board of review, the claimant and any employer or employing unit who has furnished information other than wage information in accordance with R.I. Gen. Laws § 28-44-38(c).

1.4 Appeal from the Director

- A. Any appeal or request for hearing under the R.I. Gen. Laws §§ 28-41-18 or 28-44-39(b) with respect to a decision of the Director shall be made by an interested party within fifteen (15) calendar days of the mailing date of the Director's decision in person at or by mail to the Department of Labor and Training. However, said fifteen (15) calendar day period may be extended for good cause shown.
- B. Any appeal under the R.I. Gen. Laws §§ 28-40-7, 28-43-13 or 28-43-14 of a decision of the Director shall be made by an interested party in writing to the Board of Review within fifteen (15) calendar days of the mailing date of the Director's decision. However, said fifteen (15) day period may be extended for good cause shown.

1.5 Transmittal of Record

Immediately upon the filing of any appeal or request for hearing with respect to a decision of the Director, the Director shall cause the full record of the matter to be transmitted to the Board of Review.

1.6 Availability of Record

The record of any matter pending before the Board of Review or a designated Appeal Tribunal shall be available for inspection by any interested party at the office of the Board of Review during normal working hours.

1.7 Referee as Appeal Tribunal

- A. The Board of Review may appoint one or more impartial referees to serve as appeal tribunals. The Board of Review may assign any appeal from or request for hearing with respect to a decision of the Director to a Referee for investigation, hearing, fact finding and/or decision.
- B. The Board of Review may appoint a Chief Referee who shall supervise the referees and staff of the Board, assign cases to referees, schedule hearings before referees and the Board, maintain the records of the referees and the Board, compile statistics as required by the Board and perform such other services as the Board may from time to time direct. The Chief Referee shall report to the Board.

1.8 Hearing Schedule

As soon as possible after the filing of an appeal or request for hearing, a hearing shall be scheduled before the Board of Review or before a Referee to whom the matter has been assigned.

1.9 Notice of Hearing Before Referee or Board

- A. At least seven (7) calendar days before the date of a hearing scheduled before a Referee or the Board of Review, a written notice shall be mailed to all parties at their last known addresses. The notice of hearing shall include the following:
 - 1. The date and time of the scheduled hearing;
 - 2. The location of the hearing including the city, street address and room number;
 - 3. The purpose of the hearing, the issue or issues involved and the applicable statute, regulation or rule;

4. Advice as to the importance of attending the hearing;
 5. Information concerning appropriate procedural rights, e.g., the right to be represented and to present evidence;
 6. Information concerning postponements and withdrawals;
 7. A description of the responsibility and authority of the Referee; and
 8. Advice as to where and how further assistance or information may be obtained.
- B. A notice of hearing before the Board of Review shall indicate, when appropriate, that such hearing will be:
1. A full hearing;
 2. A *de novo* hearing;
 3. A hearing for argument and new evidence only; or
 4. A hearing for argument only.

1.10 Postponement of Hearings

Upon motion of the Referee or the Board of Review or at the request of an interested party for good cause, the Referee or Board may postpone a hearing, provided that the hearing shall promptly be rescheduled to prevent unreasonable delay.

1.11 Public Hearings

Hearings before a Referee or the Board of Review shall be open to the public except when the Referee or Board determines that good cause requires otherwise. The Referee or Board may, when appropriate, order witnesses to be sequestered. A Referee or the Board may exclude from any hearing a person whose conduct is disruptive to the interest of justice.

1.12 Evidence at Referee Hearings

At a hearing before a Referee each interested party may present such sworn testimony and other evidence as may be relevant to the issues pending in the matter. Each interested party shall have the right to cross examine witnesses testifying at the hearing. The Referee shall inquire into and develop all facts

bearing on the issues and shall receive and consider evidence without regard to statutory and common law rules.

1.13 Transcripts

A record shall be kept of all testimony and proceedings in any appeal pending before a Referee or the Board of Review. Such record may be made by stenographic service or by recording device. Testimony and proceedings shall not be transcribed unless and until an appeal is properly filed from the decision of said Referee or Board. Confidentiality of records shall be in accordance with R.I. Gen. Laws § 28-42-38.

1.14 Representation at Hearings

Any interested party may be represented at a hearing before a Referee or the Board of Review by a person knowledgeable of, as appropriate, the Unemployment Insurance or Temporary Disability Insurance programs of the State of Rhode Island. A party's representative need not be an attorney.

1.15 Telephone Hearings

At the discretion of the Referee or the Board of Review, one or more interested parties may participate in a hearing by telephone and not in person. All other rules shall apply to such hearings.

1.16 Reopening by Referee

After decision, the Referee may reopen any matter for reason of fraud, mistake, collusion or substantial new evidence or when the interests of justice so require.

1.17 Appeal from the Referee

An interested party aggrieved by a decision of a Referee may appeal said decision by filing a notice of appeal in writing with the Board of Review within fifteen (15) calendar days of the Referee's decision.

1.18 Hearing Before Board of Review

- A. In any matter which has not been heard before a Referee a full hearing shall be held before the Board of Review at which hearing each interested party may present such sworn testimony and other evidence as may be relevant to the issues pending in the matter. Each interested party shall have the right to cross examine witnesses testifying at the hearing. The Board of Review shall inquire

into and develop all facts bearing on the issues and shall receive and consider evidence without regard to statutory and common law rules.

- B. At all other hearings before the Board of Review, the Board may elicit and receive such evidence and argument as it deems appropriate, consistent with the notice of said hearing.

1.19 Remand by Board of Review

- A. Any matter pending before the Board of Review may be remanded by the Board to a Referee for hearing, fact finding, decision and/or reconsideration.
- B. Any matter pending before a Referee or the Board of Review may be remanded by the Board to the Director for investigation, fact finding, decision and/or reconsideration.

1.20 Reopening by Board of Review

After decision, the Board of Review may reopen any matter for reason of fraud, mistake, collusion or substantial new evidence or when the interests of justice so require.

1.21 Appeal from Board of Review

Any interested party aggrieved by a decision of the Board of Review may appeal therefrom by filing a notice of appeal with the District Court, Sixth Division, within thirty (30) days of the Boards decision in accordance with the provisions of R.I. Gen. Laws § 42-35-15.

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