

Sec. 31-237g-60. Conduct of hearing

(Statutory reference: 31-245)

(a) The Chairperson shall conduct and control the meeting. For purposes of this section the term Chairperson shall include any person to whom the Chairperson has delegated the authority to conduct the hearing. The Board shall not be bound by the ordinary common law or statutory rules of evidence or procedure. Subject to the purposes of the hearing, the Board shall make inquiry in such manner, through oral testimony and written and printed records, and take any action consistent with the impartial discharge of its duties, as is best calculated to ascertain the relevant facts and the substantial rights of the parties, furnish a fair and expeditious hearing, and render a proper and complete decision. Subject to the Chairperson's control of the hearing, the Board may, at any time, examine or cross-examine any party or witness, and require such evidence as the Board determines to be necessary for a proper and complete decision. The Chairperson may, at any time, indicate on the record that the testimony being presented is not being supplied by a person with actual personal knowledge of the facts in question. Subject to the Chairperson's control of the hearing, the Counsel or other legal staff of the board may participate in the hearing. The Chairperson shall determine the order for presentation of evidence, and may exclude testimony and evidence which the Chairperson determines to be incompetent, irrelevant, unduly repetitious, or otherwise improper. When a party is not represented by an attorney, the Chairperson shall, as the Chairperson deems necessary in the interests of justice, advise such party as to such party's rights, aid in examining and cross-examining witnesses and in presenting evidence, and otherwise render such assistance as is compatible with the impartial discharge of the Chairperson's duties.

(b) The Chairperson has authority to administer oaths and affirmations. All testimony at the hearing before the Board shall be under oath or affirmation which shall be included on the hearing record. Any interpreter participating in such hearing shall so interpret under the separate oath for interpreters which shall also be included on the hearing record. Upon administering such oath or affirmation, the Chairperson may require the interpreter to interpret, to the extent possible, word for word in the first person as the person being interpreted for so communicates.

(c) The hearing shall be confined to the purposes and issues listed on the notice of hearing issued pursuant to Section 31-237g-52(e) of the Regulations of Connecticut State Agencies. The hearing may also cover, at the discretion of the Chairperson, any separate issue which the parties are prepared and willing to go forward on and on which they expressly waive right to notice of.

(d) At the commencement of the hearing the Chairperson shall, on the hearing record:

- (1) announce the title and case number of the appeal;
- (2) announce the commencement time, date and location of the hearing;
- (3) announce the identity of the Board and staff members present;
- (4) identify all parties, representatives and witnesses present, indicate on whose behalf each such representative or witness is appearing, and verify the addresses of all such parties and representatives;

(5) explain the procedure to be followed at the hearing, including an advisement as to the Chairperson's full authority over the conduct of the hearing;

(6) indicate that the hearing will be recorded and that the official record thus obtained will be kept during the pendency of the appeal;

(7) summarize the rights and responsibilities of the parties at the hearing;

(8) indicate that a written decision upon the appeal will be sent by the Board to all parties and representatives with reasonable promptness following the close of the hearing and advise the parties as to the appeal rights of any party aggrieved by such decision;

(9) advise the claimant to continue to file benefit claims as instructed by the Administrator in order to preserve the claimant's rights during the pendency of the appeal;

(10) summarize the case history of the appeal and indicate the issues which appear to be involved; and

(11) announce that the Board has statutory power to authorize and limit the fees payable for representation of a claimant in such proceedings and that if either the claimant or such representative requests, the Board shall rule on that matter.

(e) All documents and records which the Chairperson accepts into evidence shall be clearly and separately labeled by the Chairperson to indicate the party submitting same and shall be included in the file record. Documentary evidence may be received in the form of legible photocopies. Physical evidence shall also be labeled and placed in the file record if practicable, or otherwise described in detail by the Chairperson on the hearing record. If any party seeks to introduce at such hearing any documentary evidence or material of which the Appeals Division or any other party has not, at the time of the hearing, yet received a copy, the Chairperson shall require a specific identification of such material and an explanation of the alleged importance of such documentary evidence or material to the appeal involved. The Chairperson may exclude such documentary evidence or material unless the Chairperson determines that such material is critical to the determination of the appeal. The Chairperson may: (1) if practicable, permit such documentary evidence or material to be read into the record provided that such documentary evidence or material shall thereafter be filed with the Chairperson and all other parties in accordance with the time limitation that the Chairperson may reasonably direct; (2) if the Chairperson deems it necessary and appropriate, reschedule the hearing; or (3) take such other action as the Chairperson deems appropriate. Any party who takes exception to such written materials excluded under this provision from the hearing or filed after the hearing and who is aggrieved by the Board of Review's subsequent decision on the appeal may file a motion to reopen, vacate or set aside such decision for purposes of requesting the opportunity to file other written materials in rebuttal or the opportunity for a further hearing on the matter.

(f) Hearings shall be open to the public unless, consistent with the Freedom of Information Act and other applicable provisions of the Connecticut General Statutes, the Chairperson finds sufficient cause for a closed hearing. The Chairperson may sequester a witness during a portion of the hearing if the Chairperson deems such sequestration to promote the effective conduct of the hearing. Whenever the hearing is closed or reopened to the public, or a witness is excluded or readmitted to the hearing, the Chairperson shall so indicate upon the hearing record along with the Chairperson's reason for such action. If a party, attorney or authorized agent, appears at the hearing after the commencement of the hearing the Chairperson shall note the time of the late arrival, and may summarize the proceedings up to that point before proceeding with the hearing.

(g) The Chairperson shall not permit improper behavior or tactics, including the intentional disregard of Sections 31-237g-1 to 31-237g-60, inclusive, of the Regulations of Connecticut State Agencies or the proper instructions of the Chairperson, which are disruptive to the fair, orderly or effective conduct of the hearing. Any person, attorney or authorized agent other than a party who engages in such improper conduct shall be warned by the Chairperson, on the hearing record, against continued such behavior and if such person thereafter persists in such proscribed conduct the Chairperson may, if the Chairperson deems it necessary, expel such person from the hearing. Any party that engages in such improper conduct shall be warned by the Chairperson, on the hearing record, against continued such behavior and if such party thereafter persists in such behavior the Chairperson may, if the Chairperson deems it necessary, (1) proceed with the hearing under such instructions and conditions as the Chairperson deems fair and appropriate; (2) recess or reschedule the hearing; or (3) close the hearing and issue a decision based upon the testimony and evidence received.

(h) A hearing before the Chairperson may, at the initiative of the Chairperson, or the oral or written request of a party, be briefly recessed or continued to another time, date, or place if the Chairperson determines that good cause exists for such recess or continuance. Such good cause shall be stated on the record. Unless waived by all parties present, notice of a continuance shall be issued by the Board pursuant to Section 31-237g-52 of the Regulations of Connecticut State Agencies.

(i) The Chairperson may permit any party, or the attorney or authorized agent of record for such party, to file with the Board at the hearing written argument concerning such appeal provided a copy of such argument is delivered to each other party present at such hearing. Such written argument may supplement but not serve in lieu of testimony and evidence presented under oath at the hearing duly scheduled upon an appeal, and in no case will evidentiary allegations contained in such written argument be considered or treated by the Board in the same fashion as such testimony or evidence of record.

(j) At the conclusion of the hearing the Chairperson shall announce on the record both the fact and time of such conclusion. The Chairperson may, prior to such conclusion, at the Chairperson's own initiative or upon the request of a party for good cause shown, on the record grant a limited extension of time, prior to the issuance of the Board's decision, for the filing by a party of additional documents or written argument provided the significance and identity of such documents are described at the time of the granting of such extension and each other party present is advised of its right to request a reasonable amount of time following the submittal of such documents in which to file a written rebuttal. Any such party which requests such opportunity for rebuttal shall be permitted a reasonable amount of time, as determined by the Chairperson, to do so. All such written materials thereafter filed following the hearing shall be filed in accordance with Section 31-237g-10 (a) of the Regulations of Connecticut State Agencies or as the Chairperson prescribes.

(k) If any party seeks to introduce at such hearing any documentary evidence or material which the Appeals Division or any other party has not, at the time of the hearing, yet received a copy, the Chairperson may require a specific identification of such material and an explanation of the alleged importance of such documentary evidence or material to the appeal involved. If as a result of such explanation the Chairperson determines that such

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material is important to the appeal, the Chairperson may: (1) if practicable, permit such documentary evidence or material to be read into the record provided that, pursuant to the provisions of Section 31-237g-10 (a) of the Regulations of Connecticut State Agencies such documentary evidence or material shall thereafter be filed with the Board and the other parties in accordance with the time limitation that the Chairperson may reasonably direct; and (2) if the Chairperson deems it necessary, take such other action as the Chairperson deems appropriate. Any party who takes exception to such written materials filed after the hearing and is aggrieved by the Board's subsequent decision on the appeal may file, pursuant to Section 31-237g-50 of the Regulations of Connecticut State Agencies, a motion to reopen, vacate or set aside such decision for purposes of requesting the opportunity to file other written materials in rebuttal or the opportunity for a further hearing on the matter.

(Effective June 23, 1986; Amended October 27, 1997; Amended June 3, 2021)