

CHAPTER 20
BOARD OF REVIEW

Authority

N.J.S.A. 34:1A-3(e), 43:21-6(d) to (f), 43:21-10 and 43:21-17.

Source and Effective Date

R.2004 d.324, effective July 23, 2004.
See: 36 N.J.R. 2297(a), 36 N.J.R. 3883(a).

Chapter Expiration Date

Chapter 20, Board of Review, expires on July 23, 2009.

Chapter Historical Note

Chapter 20, Board of Review, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 20, Board of Review, was readopted as R.1989 d.473. See: 21 N.J.R. 1496(a), 21 N.J.R. 2797(a).

Subchapter 6, Telephone Hearings, was adopted as R.1989 d.474, effective September 5, 1989. See: 21 N.J.R. 1644(a), 21 N.J.R. 2798(a).

Pursuant to Executive Order No. 66(1978), Chapter 20, Board of Review, was readopted as R.1994 d.408, effective July 18, 1994. See: 26 N.J.R. 2196(a), 26 N.J.R. 3179(a). Subchapter 6, Telephone Hearings, was repealed by R.1994 d.408, effective August 1, 1994. See: 26 N.J.R. 2196(a), 26 N.J.R. 3179(a).

Appendix, Unemployment Benefit and State Plan Temporary Disability Cases, was adopted as R.1994 d.406, effective August 1, 1994. See: 26 N.J.R. 2174(a), 26 N.J.R. 3154(a).

Pursuant to Executive Order No. 66(1978), Chapter 20, Board of Review, was readopted as R.1999 d.250, effective July 12, 1999. See: 31 N.J.R. 1475(a), 31 N.J.R. 2221(a).

Chapter 20, Board of Review, was readopted as R.2004 d.324, effective July 23, 2004. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ORGANIZATION OF BOARD OF REVIEW

12:20-1.1 Membership

The Board of Review shall consist of three members appointed by the Assistant Commissioner who is responsible for the administration of the Unemployment Compensation Law and subject to the provisions of N.J.S.A., Title 11A, and the supplements and amendments thereto, from Department of Personnel eligible lists.

Amended by R.1989 d.473, effective September 5, 1989. See: 21 N.J.R. 1496(a), 21 N.J.R. 2797(a).

Stylistic revisions.
Amended by R.1994 d.408, effective August 1, 1994. See: 26 N.J.R. 2196(a), 26 N.J.R. 3179(a).

12:20-1.2 Officers

(a) The Board of Review shall elect one of its members as chairperson and one as vice-chairperson to serve at the pleasure of the Board.

(b) The Board of Review may appoint a secretary to serve at the pleasure of the Board.

Amended by R.1994 d.408, effective August 1, 1994. See: 26 N.J.R. 2196(a), 26 N.J.R. 3179(a).

12:20-1.3 Duties

(a) It shall be the duty of the members of the Board of Review to act as a final appeals board in hearing and deciding cases of benefit disputes, including appeals from determinations with respect to demands for refunds of benefits under N.J.S.A. 43:21-16(d) of the Unemployment Compensation Law, to determine all matters of policy in the Board of Review, to supervise the work of appeal tribunals, and to issue rules and regulations governing the conduct of hearings and the presentation of appeals to the appeal tribunals and to the Board of Review.

(b) The chairperson of the Board of Review shall convoke and preside at all meetings of the Board of Review.

(c) The vice-chairperson shall perform the duties of the chairperson during any period of the latter's absence or incapacity.

(d) The executive secretary of the Board of Review shall keep a record of proceedings at meetings of the Board of Review and shall prepare minutes to record all actions of the Board at each meeting. Said minutes shall be presented to the Board of Review for approval at its next meeting.

(e) The executive secretary may, with the consent of the Board of Review, issue subpoenas and shall sign all orders and other official documents issued in the name of the Board of Review and shall certify its decisions. The executive secretary shall maintain the permanent file of the approved minutes of Board of Review meetings and shall be charged with the supervision of all administrative work of the Board of Review.

Amended by R.1989 d.473, effective September 5, 1989.
See: 21 N.J.R. 1496(a), 21 N.J.R. 2797(a).

Stylistic revisions.

Amended by R.1994 d.408, effective August 1, 1994.
See: 26 N.J.R. 2196(a), 26 N.J.R. 3179(a).

Case Notes

Claimant receiving full unemployment benefits while employed part-time must refund entire amount of benefits paid; Appeal Tribunal and Board of Review may have appellate authority to review or adjudicate only claim disputes and not the imposition of fines; remand to Appellate Division to consider propriety of fine imposed. *Malady v. Bd. of Review, Div. of Unemployment Security*, 76 N.J. 527, 388 A.2d 947 (1978) on remand 166 N.J.Super. 523, 400 A.2d 119.

12:20-1.4 Quorum

A quorum of the Board of Review shall consist of two members of the Board. No decision, determination, opinion or other official duty shall be rendered or taken by the Board of Review except with the approval of a majority thereof.

SUBCHAPTER 2. ORGANIZATION OF APPEAL TRIBUNALS

12:20-2.1 Membership

Appeal tribunals shall consist of a single member who shall be a salaried examiner appointed by the Director subject to the provisions of N.J.S.A., Title 11A, and the supplements and amendments thereto, from Department of Personnel lists.

Amended by R.1989 d.473, effective September 5, 1989.
See: 21 N.J.R. 1496(a), 21 N.J.R. 2797(a).

Deletion of (b) to conform to recent legislation.

Amended by R.1994 d.408, effective August 1, 1994.

See: 26 N.J.R. 2196(a), 26 N.J.R. 3179(a).

12:20-2.2 Duties

It shall be the duty of the appeal tribunals to hear and decide disputed benefit claims, including appeals from determinations with respect to demands for refunds of benefits under N.J.S.A. 43:21-16(d) of the Unemployment Compensation Law of New Jersey and determinations with respect to requests by employers for relief from benefit charges pursuant to N.J.A.C. 12:17-21.

Amended by R.1989 d.473, effective September 5, 1989.

See: 21 N.J.R. 1496(a), 21 N.J.R. 2797(a).

Stylistic revisions.

Amended by R.1994 d.408, effective August 1, 1994.

See: 26 N.J.R. 2196(a), 26 N.J.R. 3179(a).

Amended by R.1999 d.250, effective August 2, 1999.

See: 31 N.J.R. 1475(a), 31 N.J.R. 2221(a).

Added "and determinations with respect to requests by employers for relief from benefit charges pursuant to N.J.A.C. 12:17-21" at the end.

Case Notes

Claimant receiving full unemployment benefits while employed part-time must refund entire amount of benefits paid; Appeal Tribunal and Board of Review may have appellate authority to review or adjudicate only claim disputes and not the imposition of fines; remand to Appellate Division to consider propriety of fine imposed. *Malady v. Bd. of Review, Div. of Unemployment Security*, 76 N.J. 527, 388 A.2d 947 (1978) on remand 166 N.J.Super. 523, 400 A.2d 119.

12:20-2.3 (Reserved)

Recodified by R.1989 d.473, effective September 5, 1989.

See: 21 N.J.R. 1496(a), 21 N.J.R. 2797(a).

Text on chairman at N.J.A.C. 12:20-2.3 repealed and replaced with text from N.J.A.C. 12:20-2.5, on disqualification of members of appeal tribunals and changes made to conform to recent legislation.

Repealed by R.1994 d.408, effective August 1, 1994.

See: 26 N.J.R. 2196(a), 26 N.J.R. 3179(a).

Section was "Disqualification of members of appeal tribunals."

12:20-2.4 (Reserved)

Repealed by R.1989 d.473, effective September 5, 1989.

See: 21 N.J.R. 1496(a), 21 N.J.R. 2797(a).

12:20-2.5 (Reserved)

Recodified by R.1989 d.473, effective September 5, 1989.

See: 21 N.J.R. 1496(a), 21 N.J.R. 2797(a).

SUBCHAPTER 3. APPEALS TO APPEAL TRIBUNALS

12:20-3.1 Presentation of appealed claims

(a) Any written statement, including a facsimile, electronic mail or other electronic transmission, filed within the time for appeals allowed by law, which sets forth the fact that a party to a determination made by the division is aggrieved thereby or dissatisfied therewith, shall be deemed to be an appeal.