

CITY OF PHILADELPHIA BOARD OF LABOR STANDARDS
REGULATIONS REGARDING PUBLIC HEARING PROCEDURES

Pursuant to its powers as set forth at Section 8-407 of the Philadelphia Home Rule Charter and Sections 9-4303(5)(e) and 17-107(7)) of the Philadelphia Code, the Board hereby adopts the following regulations, which shall become effective immediately and shall remain in effect until amended by the Board.

1. Definitions.

“Telecommunications Technology.” Any interactive technology used to facilitate virtual or distance meetings during the affected period, including telephone and internet communication.

“Participant.” Appellants, Attorneys representing Appellants, City Solicitors, and Witnesses.

“Panel Members.” The Board, the Board’s Attorneys, and the Board’s Administrator and members of the Board’s staff. Panel Members may have their role in the proceedings identified on screen along with their name.

“Limited Panel Members.” Participants designated as panel members for the duration of a case.

“Host.” A member of the Board’s staff responsible for displaying the previously submitted documents and exhibits during the course of the hearing.

2. Language Services. Participants shall inform the Board as soon as possible if the primary language in which the Appellant communicates is not the English language to enable the Board to provide an Interpreter to orally translate the proceedings. If the Board does not receive notice of the need for an Interpreter in time to arrange for an Interpreter to be provided, the Board may reschedule the hearing. The Interpreter must be provided by the Board; the Appellant may not rely on the services of another Interpreter even if that person is an attorney, family member, or friend.

3. Extension and Continuance Requests. Requests for extensions and continuances must be submitted to the Chair at least five (5) days prior to the applicable deadline or hearing. The request must indicate whether any other party opposes the request. A copy of the request must be sent to the opposing party contemporaneous with the request to the Board. Any opposition must be submitted to the Board within 2 days of the request or it will be deemed unopposed. Where a party fails to timely submit a filing, or where a party fails to appear for a hearing, the Board has the discretion to proceed with the hearing in the absence of that party and to close the record and proceed to a final decision without giving that party any further

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opportunity for a hearing. The Chair may grant or deny extension or continuance requests in the Chair's discretion, subject to review by the Board.

4. Submission of Evidence.

(a) **Documentary Evidence.** All documentary evidence that a Participant intends to rely on at the hearing, not including the appeal form and any documents attached thereto, shall be numbered and submitted to the Board and opposing parties at least five days (5) days prior to the hearing.

(b) **Witness Testimony.** A list identifying the name of each witness who may be called to testify at the hearing shall be submitted to the Board and opposing parties at least five (5) days prior to the hearing. The list shall identify any language for which the witness may need an Interpreter, keeping in mind that a translator provided by the Board is necessary if any Witness communicates in a primary language other than English.

7. **Presentation of Evidence.** A member of the Board's staff will be designated as the Host and will be responsible for displaying previously submitted documents and exhibits during the course of the hearing as directed by the Participants. Where documents and exhibits have not been submitted in advance of the hearing and the Board determines that a continuance is not necessary, the Participant presenting the documents or exhibits shall send them to the Host by electronic mail and the Host will display the documents or exhibits as directed by the Participant. Prior to displaying the documents, the Board shall ensure the documents submitted are transmitted to the opposing party or parties.

8. **Order of Presentation.** Unless otherwise directed by the Chair, the order of presentation shall be: (a) presentation of the Appellant or Appellant's Counsel, followed by (b) presentation of the Office of Worker Protection, followed by (c) presentation of the Appellee. The Board may require the parties to present any procedural issues arising in the matter prior to addressing the merits; if the Board concludes the procedural issues are determinative, the Board may decline to reach the merits. The Chair may require or allow opening and closing remarks.

9. Conduct of Hearing.

(a) The hearing will be recorded and participation by any person joining the hearing, regardless of role or telecommunications technology used to join the hearing, constitutes consent to be recorded.

(b) Each Participant will be designated as a Limited Panel Member for the duration of the case and, where joining the hearing by video enabled telecommunications technology, shall enter their first and last name at login so that it may be displayed on screen.

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(c) Participants will be required to identify themselves to the Board and provide up to date contact information.

(d) For the duration of the case, each Participant shall state their name prior to speaking each time they speak and, where joining the hearing by video enabled telecommunications technology, shall activate their video camera while speaking.

(e) When not speaking or making an objection, each Participant shall keep their microphone or transmitter on mute. The raise hand function is not required to make an objection.

(f) Prior to each witness' testimony, the Board will administer the oath.

(g) When presenting, the Participant shall direct the Host to display documents or exhibits as needed and the Participant shall identify the document or exhibit displayed by the Host for the record.

(h) Reasonable examination and cross-examination shall be permitted.

(i) During testimony by any witness, no one is permitted to communicate—by chat, text, email, verbally in-person or by any other means—with the testifying witness except by way of an on-the-screen oral question directed toward that witness.

(j) The Chair shall conduct the hearing, rule on objections, and direct the order of presentation.

(k) Any Board Member may, at the time designated by the Chair, ask questions of counsel and witnesses.

(l) Parties may make objections to the Chair; however the Board is not bound by technical rules of evidence and all relevant evidence of reasonably probative value may be received.

10. Where the Board determines that there has not been substantial compliance with these regulations and, as a result, the hearing cannot go forward at the scheduled time, the Board may continue the hearing as necessary in the interest of the efficient administration of justice.

11. Vote by Board. The Board may not communicate privately during the hearing. At the end of each case, the Chair shall poll the Board and query whether the individual members are prepared to vote. If each member is prepared to vote, the Chair shall poll the Board and the individual members shall verbally report their vote for the record. The Board's Administrator or a member of staff will also record the vote on a tally sheet. If any member of the Board wishes to discuss the case prior to voting, the Chair shall announce that the matter will be discussed in executive session, and either recess the Board into an executive session or

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continue the matter until a future public meeting after the Board has deliberated in an executive session.

12. Notice of Decision. Following a vote of the Board, the Board's decision will be memorialized in a written Notice of Decision that shall be sent by electronic mail and, in the event an electronic mail address is not provided, shall be sent by regular mail. The date of the decision is the date on the Notice of Decision, and any appeal period shall run therefrom unless otherwise specified.

13. In the event of an appeal to the Court of Common Pleas of a final decision of the Board, the legal advisor to the Board shall, subject to the direction and review of the Chairperson of the Board, draft Findings of Fact and Conclusions of Law, which the Chairperson of the Board, or designee, shall approve and sign on behalf of the Board.