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Title 29 — Labor

Subtitle A — Office of the Secretary of Labor

Part 26 Administrative Review Board Rules of Practice and Procedure

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PART 26—ADMINISTRATIVE REVIEW BOARD RULES OF PRACTICE AND PROCEDURE

Authority: Secretary's Order 01-2020, 85 FR 13186 (March 6, 2020).

Source: 86 FR 1782, Jan. 11, 2021, unless otherwise noted.

§ 26.1 Purpose and scope.

- (a) This part contains the rules of practice of the Administrative Review Board (ARB) when it is exercising its authority as described in paragraph (b) of this section. These rules shall govern all appeals and proceedings before the ARB except when inconsistent with a governing statute, regulation, or executive order, in which event the latter shall control.
- (b) The ARB has authority to act as the authorized representative of the Secretary of Labor in review or on appeal of decisions and recommendations as provided in Secretary's Order 01-2020 (or any successor to that order). The ARB shall act as fully and finally as the Secretary of Labor concerning such matters, except as provided in Secretary's Order 01-2020 (or any successor to that order).

§ 26.2 General procedural matters.

- (a) **Definitions.**
 - (1) **ARB** means the Administrative Review Board.
 - (2) **Electronic case management system** means the Department of Labor's electronic filing and electronic service system for adjudications.
- (b) **Computing time.**
 - (1) Unless a different time is set by statute, regulation, executive order, or judge's order, when computing a time period stated in days,
 - (i) Exclude the day of the event that triggers the period;
 - (ii) Count every day, including intermediate Saturdays, Sundays, and legal holidays; and

- (iii) Include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the next day that is not a Saturday, Sunday, or legal holiday.
- (2) Unless a different time is set by statute, regulation, executive order, or judge's order, the "last day" ends:
 - (i) For electronic filing via the Department's electronic case management system or via other electronic means, at 11:59:59 Eastern Time on the due date.
 - (ii) For non-electronic filing, at the time the office of the Clerk of the Appellate Boards is scheduled to close in Washington, DC on the due date.
- (c) **Mailing address.** The mailing address for the ARB is: Administrative Review Board, Clerk of the Appellate Boards, U.S. Department of Labor, 200 Constitution Ave. NW, Washington, DC 20210.

§ 26.3 Filing.

- (a) **Filing by electronic submission (e-filing) via the Department's electronic case management system –**
 - (1) **Attorneys and lay representatives.** Except as otherwise provided in this section, beginning on April 12, 2021, attorneys and lay representatives must file all petitions, pleadings, exhibits, and other documents with the ARB via the Department's electronic case management system. Paper copies are not required unless requested by the ARB.
 - (2) **Good cause exception.** Attorneys and lay representatives may request an exemption to e-filing for good cause shown. Such a request must include a detailed explanation why e-filing or acceptance of e-service should not be required.
 - (3) **Self-represented persons.** Self-represented persons may use but are not required to use the Department's electronic case management system to file documents.
 - (4) **Filing—date of receipt.** Unless a different time is set by statute, regulation, executive order, or judge's order, a document is considered filed when received by the Clerk of the Appellate Boards. Documents filed through the Department's electronic case management system are considered received by the Clerk of the Appellate Boards as of the date and time recorded by the Department's electronic case management system.
 - (5) **Signing.** A filing made through a registered user's account on the Department's electronic case management system and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.
 - (6) **Relief for Technical Failures.** A person who is adversely affected by a technical failure in connection with filing or receipt of an electronic document may seek appropriate relief from the ARB. If a technical malfunction or other issue prevents access to the Department's case management system for a protracted period, the ARB by special order may provide appropriate relief pending restoration of electronic access.
- (b) **Alternate methods of filing.** Unless a different time is set by statute, regulation, executive order, or judge's order, a document filed using a method other than the Department's electronic case management system is considered filed when received by the Clerk of the Appellate Boards.

§ 26.4 Service.

- (a) **Electronic service.** Electronic service may be completed by

- (1) Electronic mail, if consented to in writing by the person served; or
 - (2) Sending it to a user registered with the Department's electronic case management system by filing via this system. A person who registers to use the Department's case management system is deemed to have consented to accept service through the system.
- (b) **Non-electronic service.** Unless otherwise provided by statute, regulation, executive order, or judge's order, non-electronic service may be completed by:
- (1) Personal delivery;
 - (2) Mail; or
 - (3) Commercial delivery.
- (c) **When service is effected.** Unless otherwise provided by statute, regulation, executive order, or judge's order,
- (1) Service by personal delivery is effected on the date the document is delivered to the recipient.
 - (2) Service by mail or commercial carrier is effected on mailing or delivery to the carrier.
 - (3) Service by electronic means is effected on sending.