HOW TO REPRESENT YOURSELF IN YOUR UNEMPLOYMENT APPEAL

INTRODUCTION

An unemployment appeal usually happens for one of three reasons. 1) YOU appealed because the Employment Development Department (EDD) has denied your application for unemployment insurance benefits, or 2) YOU appealed because EDD claims you received benefits you should not have and says you owe them money, or 3) YOUR EMPLOYER appeals in order to deny you unemployment benefits.

The following information is intended to help you do a good job in handling the appeal on your own.

I. PREPARING FOR THE HEARING

A. When a hearing is scheduled you will receive a NOTICE OF HEARING. **Look carefully at the NOTICE OF HEARING** in order to:

1. <u>Make sure you know where and when (day, hour) the hearing will be.</u>

The time, date and place of your hearing are provided on the NOTICE OF APPEAL. An example of the notice is on the next page. If you do not show up for the hearing at that place and **on time,** your appeal will be dismissed and you will lose**.**

If you cannot go to the hearing at that place or time, as soon as you possibly can call the **OFFICE OF APPEALS** (at the phone number provided in the top, right corner of the NOTICE OF HEARING) to request a different place and/or a different time. **Do not call the Employment Development Department**. The OFFICE OF APPEALS is not EDD and EDD cannot help you to reschedule the hearing.

If you fail to show and your appeal is dismissed, you might be able to get a rescheduled hearing, but only if you have a good reason for not showing up and for not contacting the OFFICE OF APPEALS before the hearing.

One hour is usually the most time that is provided for a hearing. Most hearings are concluded in less than an hour.

2. <u>Make sure you know what all the issues are.</u>

The NOTICE OF APPEAL tells you what issues@ will be involved in your hearing (that is, what problems or reasons supposedly make you ineligible for unemployment benefits). The issues are listed in the section of the NOTICE OF HEARING under the statement: **THE FOLLOWING ISSUES WILL BE CONSIDERED AT THE HEARING.** The Administrative Law Judge (judge) will decide all those issues in the hearing. Your NOTICE OF HEARING may list more than one issue. Also, you may

receive more than one NOTICE OF HEARING. Each notice might state separate issues for the judge to decide.

For example, one NOTICE OF HEARING might say,

> "Did the claimant voluntarily leave his or her most recent employment without good cause."
>
> "Was the claimant discharged for misconduct connected with his or her most recent work."

A second NOTICE OF HEARING may list the following issues:

> "Was the claimant overpaid benefits. Is the claimant liable for repayment."
>
> "Was the overpayment caused by the claimant's willful false statement."

The NOTICE OF HEARING will also provide the meaning of the terms in the issues.

For you to win your case, the judge will have to decide in your favor all the issues included in each NOTICE OF HEARING.

3. Get a Copy of the Appeal File

The "appeal file" contains the documents that are available to the judge before the hearing starts. As soon as you receive your Notice of Appeal, call the OFFICE OF APPEALS and request a copy of the appeal file. The appeal file is also available a couple days before the hearing at the local hearing office (the place of the hearing that is provided on your Notice of Hearing). It is also placed outside the hearing room on the day of the hearing.

There are two reasons you should obtain and review the appeal file.
(a) At the start of the hearing, the judge will ask you if you have reviewed the documents in the appeal file. It is helpful to be able to say, "Yes, your honor."
(b) The appeal file contains documents that you should know about. These include the notes of the EDD person who originally interviewed you on your claim. The notes help you remember what you said. Also, sometimes the interviewer is wrong about what you said, and you will have to tell the judge what you really said. The appeal file also contains what your employer said in trying to deny you unemployment benefits. You can then be ready to respond to what your employer claims.

B. Prepare your evidence and obtain your witnesses without delay.

Your job in the hearing is to present evidence that will help you convince the Judge to rule in your favor. Evidence includes relevant documents and testimony (statements). You

should obtain and organize your evidence as soon as you can. Your own testimony is "evidence" and is often the only evidence you will have or need.

1. Written evidence.

Organize any written evidence you have. If you have reports or notices you want to use, organize them in a way that makes sense and that will help you explain your case. Place them in a file folder or several file folders in the order that you will want to present them to the judge during your hearing.

If you need documents that you do not have already, try to get them as soon as possible. You may not have or may not need any written evidence. But do not wait until the day before the hearing to get your documents together and to know how you will use each document in the hearing.

If you think your employer has documents that you know will help your case, you can require him to bring the documents to the hearing. You do this by requesting that the OFFICE OF APPEALS give you a "subpoena duces tecum." The OFFICE APPEALS will know what you need if you just call and say you need to require your employer to bring documents to the hearing. You have to be specific about the documents you want and why you want them. You should request a "subpoena duces tecum" as soon as possible after you receive your notice of hearing. If you wait too long, the OFFICE OF APPEALS will not give you a subpoena.

Try to anticipate what documents or witnesses your employer may use that could hurt your case. If you can, figure out how to explain or contradict what each of the employer's documents and/or witnesses may say.

2. Witnesses

Again, your own testimony is "evidence" and is often the only evidence you will have or need. But testimony by other witnesses is often given more importance by the judge than your own testimony. This is because witnesses, other than friends or relatives, can be considered less biased than you are about your own case. Even if you are not sure how much a friendly witness may help you, you are usually better off having the friendly witness testify for you. But only use witnesses that you can be sure are on your side. *Usually, you cannot expect people who still work for your employer to take your side.*

Talk to possible witnesses before the hearing to make sure they are willing and able to help you.

a. Help in getting witnesses to testify

If you are sure a witness will help you but you think the witness may be unwilling to go to the hearing, the OFFICE OF APPEALS can help. You can ask the OFFICE OF APPEALS for either a subpoena or a Notice to Attend Hearing.

A subpoena requires the person to attend the hearing, and the person may be held in contempt of court if they do not show up in response to a subpoena. The OFFICE OF APPEALS will send you the subpoena, and you will have to arrange to have the subpoena personally served on (that is, handed to) the witness.

Instead of a subpoena, you could ask the OFFICE OF APPEALS to send your witness a Notice to Attend. Unlike the subpoena, you do not have to "serve" a Notice to Attend. The OFFICE OF APPEALS will mail the notice directly to the witness. However, also unlike a subpoena, there is no penalty if the witness ignores a Notice to Attend.

You will not get either a subpoena or a Notice to Attend if you ask for one too close to the date of the hearing.

Do not subpoena or use a witness unless you are sure they can help you and will not hurt your case. You should be careful about **requiring** someone to be a witness. Someone you make testify may be unhappy about being required to go to the hearing and could be hostile to you. In addition, you may have to pay the witness for his or her time and mileage. Ask the OFFICE OF APPEALS if you would have to pay and, if so, how much.

So, you should **make** someone to testify only if (a) you think it is absolutely necessary or (b) if you need them to bring to the hearing important documents that you can get only by getting a subpoena for the documents (called a "subpoena duces tecum" as was discussed before in how to obtain documents from your employer).

Helpful Witnesses that Cannot Attend the Hearing

If someone who would be a good witness for you cannot attend the hearing, you can present their testimony by preparing an "affidavit," which is a statement made under penalty of perjury. The OFFICE OF APPEALS can provide you forms for filling out affidavits. There is an example of the affidavit form on the next page. Judges prefer to get testimony from a witness who attends the hearing so the other side has a chance to challenge their testimony. The other side does not have this chance if the testimony is provided in an affidavit by a person who is not at the hearing. So the judge may not rely as much on an affidavit as he would rely on what a witness, you or the employer may say in the hearing. But it is better to get a witness' statement in an affidavit than to have no testimony at all from the witness.

Talk to possible witnesses before the hearing to make sure they are willing and able to help you. A witness can testify only about things (conversations, actions, documents) that the witness saw or heard by himself or herself (that is, an "eyeball witness.") If your witness can only talk about statements that were made by someone who is not at the hearing, your witness's testimony is "hearsay"(second-hand evidence). The judge can refuse to consider "hearsay" as being real evidence.

Do not try to win your case by questioning the employer and/or his witnesses. Your job in the hearing is more than proving the employer and his or her witnesses are wrong. You have to present testimony or other evidence that shows you are right. Asking questions to people who are against you just gives them another chance to repeat things that may hurt your case.

Additionally, you should never ask a question unless you are fairly certain how it will be answered. Otherwise, the answer could harm instead of help your case.

Obtain and prepare only evidence that helps you.

You do not have to and obviously should not provide evidence that hurts your case. So do not present documents or witnesses that may help your employer. For example, if the issue is whether you violated your employer's rules about being absent, do not present in your hearing written notices from your employer that claim you were absent without good reason or that claim you were absent without letting your employer know beforehand. Similarly, do not use a witness unless you are sure that they will help your case. If a witness might say something against you, do not use the witness.

[A Note About "Hearsay" Evidence]:

Neither you nor you employer can prove an issue or fact by presenting only hearsay, *if the other side objects to the hearsay*.

Hearsay is when someone testifies about something that another person said to them, or when someone wants to give a written statement of what someone said rather than having that person come and testify in person.

For example if a witness for your employer tries to testify that, " The supervisor, Jim, told me he saw [you] push Andy," that's hearsay. If your employer attempts to present hearsay evidence you need to do two things:

1. You should object, by saying something like "That's hearsay." The judge may refuse to allow the witness to make that statement. But usually, the statement has already been made. So, it is very important also that:
2. You must offer evidence that the statement is not true. For instance, you should say "I did not push Andy." Or you could say, "Jim was not there when this happened and didn't see anything, and it didn't happen that way at all."

If your employer or his witness presents a letter or note written by Jim, you should object that the note is hearsay. If you object and your employer has nothing else to prove you pushed Andy, in deciding your case the judge should consider that you did **not** push Andy. If Jim signs an "affidavit," that is, if he signs the note "under penalty of perjury," the judge may give more consideration to the note, but it is still hearsay and you should still object to it. Again, you also need to testify or offer other evidence that what the note says is not true.

If you do not object, the judge can consider the hearsay evidence for whatever he or she thinks it is worth. If you have no evidence to contradict the hearsay and if you did not object to the hearsay, the judge may decide that your employer proved his or her point (in our example, the judge can decide that you pushed Andy and were therefore fired for "bad conduct.")

Obtain and prepare only evidence that matters.

Only evidence that concerns the issues will help you. As an example, the issue is that your employer says you were fired because you missed work without notifying him like you were required to do. Good job evaluations you received from your employer **will not** help you prove that you followed your employer's rules for the time he claims you were absent. Similarly, testimony that your supervisor is a jerk will not prove that you followed the rules. A copy of a note that you sent to your supervisor before you were absent **will** help you prove your case. Similarly, testimony from someone who saw you give notice to your supervisor or who called in for you will also help you.

Talk with any witness before the hearing to help them focus their testimony (to keep them from wandering into matters that are not related to the issues in the hearing or that may hurt your case). You are not allowed to tell the witness what to say. Before the hearing you can, however, help your witness(es) to prepare for possible questions and to collect their thoughts and memories. You should also help them focus on what is important and to keep them from rambling.

Make copies of all papers you want to use as evidence

Before the hearing, you should have copies of any documents you want to use as evidence. Make enough copies for the judge and all other parties to have a copy. Bring the original of the document as well so you can show it to the judge. He can keep the copy in the case record and return the original to you. If you don't have the original, be prepared to explain to the judge why you could not provide the original.

3. Write out a list of all the points you want to make to the judge.

Before the hearing, list on paper the points you want to cover in the hearing. You will use this as a checklist to make sure you cover in the hearing everything you want to discuss.

For example, if the issue is whether you started a fight at work, you might want to list the following points to cover:

1. You did not get into the fight
   Evidence:
   a) John was there and can testify that George yelled and pushed you, and that you did not fight back.
   b) Mary saw and can testify that you walked away two other times when George tried to start a fight with you.
2. Your accusers are not believable.
   Evidence:
   a) Your testimony that George thinks you were flirting with his sister and he had it in for you.

b) Subpoena a copy of the supervisor Hank's report saying that George lied about something else(which suggests he may be lying about you as well.)

c) John's testimony that he saw Bill and George sell drugs to other workers [you would have John say this only if Bill and/or George testify or if you know the supervisor made a report when John told him about the drug sales.]

3. You did not yell at or threaten George as he claims.

Evidence:

a) John's testimony that he saw Bill in the lunch room at the same time that Bill claims he saw you in the parking lot yelling and threatening George.

4. George is lying about you injuring him.

Evidence:

a) Serve a subpoena duces tecum on George to require him to bring any supposed medical records for his claim that he had to go to the hospital emergency room. If George doesn't bring the records to the hearing, then he has to explain why he didn't bring the records (and the judge may decide that no records exist because George was not injured).

b) Mary's testimony that she saw George take off his bandage after work and there was no wound beneath it

c) Ed saw and heard George laughing with Bill about the fake bandage.

If the Appeal File lists additional issues and/or if the other side says something in the hearing that you can prove is untrue or incorrect or that you need to explain to the judge, you should add to your list those other points to cover during the hearing.

II. What to Do in the Hearing

It is not the judge's job to presume or guess your side of the story. *The judge can and will decide the case only from the documents in the appeal file and from what you and the other side present during the hearing.* If you do not present evidence on something, the judge will decide your case without knowing that fact. For example, if you forget to tell the judge that your coworker, Mike, promised to inform your supervisor that you could not be at work, the judge will decide the case without knowing that you tried to advise your supervisor about your absence.

If you lose your case, you usually will not be able to present any evidence after the hearing. If you appeal the judge's decision, you might be able to provide evidence you omitted, but usually only if you can convince the judge or appeal panel that you could not obtain the evidence before the hearing, or that you had a really good reason for not presenting the evidence during the hearing.

Whether or not you have already looked at the appeal file, you should get to the hearing at least 15 minutes early so you can again review the file. At the start of the hearing, the judge will ask you if you have reviewed the documents in the appeal file. You want to be able to say, "Yes, your honor." He will ask if you have any objections to "admitting the documents into evidence." Admitting a document into evidence means the judge can use the document in deciding the case. Usually, you will have no basis for objecting, even if you don't like or disagree with what a document says. Just say "No objection, your honor."

You may not need to take the initiative in presenting your case. The judge often asks you, the employer or a witness questions. You can add your own testimony to cover things the judge's questions don't cover. You can also ask follow-up questions of your own witnesses, if any. Similarly, you can ask follow-up questions of your employer and any of his witnesses after they testify, whether or not the judge has asked his or her own questions.

A. Does and Don'ts for your own testimony.

Your own testimony is probably the most important part of your case. Again, your own testimony is "evidence" and is often the only evidence you will have or need. So it is important that you testify as well as you can. The judge will decide your case not only by what you say or don't say, but also by how believable he or she thinks you are. Being believable depends on how you come across, what kind of person the judge thinks you are, whether you contradict yourself, whether you try to avoid answering questions, etc.

Here are some suggestions about getting all your points made and being believable:

<u>Stand Up for Yourself but Be Pleasant and Respectful</u>

It will not help you to be either timid or angry/aggressive. Make sure you are treated fairly. Contradict untruths and try to correct erroneous information . But avoid being openly angry or hostile, especially to the judge. Dress nicely. You don't have to dress like the president

of the company, but look like you respect the judge and that you take the hearing seriously. Dirty clothes, a torn tee-shirt, shorts or your sweats are not good ideas.

Answer the Question that is Asked

When the judge or your employer asks you a question, make sure you understand what is being asked, then answer that and only that question. If you are asked "Did you arrive late on Thursday?" your answer should be "yes" or "no." You can try to explain your answer later. But if instead of first answering the yes or no question, you go into a discussion about how you used to work a different shift, that you didn't usually work Thursday, or that your supervisor was out to get you, you look like you are afraid to answer the question. You not only make yourself look less believable, you may annoy the judge which is not a good idea.

If you don't understand the question, get it clarified and then answer it. Don't first go into a discussion. For example, if the question is "Were you late for work on Thursday?" you may not be certain what Thursday is involved, or you may have not worked on Thursdays. Before you say anything else, ask the judge or your employer to clarify what Thursday they mean, or just say you never worked on a Thursday. If you don't get the question clarified, you won't really know what you may be admitting or denying.

Stick to the Issues

Don't talk about things if they don't really matter. Remember that the real issue is "Are you eligible for unemployment benefits?" So trying to show how unfair it was that you were fired, that the employer discriminated against people, or that you are a truly good employee won't really matter to the judge.

Don't ask for information that has already been given. Even if someone has said something that is a little inaccurate, don't question them about it unless you are sure it is really important to your case. For example, if the judge asks you employer the dates of your employment, and the employer says you started in June of 2004 instead of May 2004, don't bother getting the point corrected unless you think that it could change how the judge might rule.

Use Your Check-List

As you answer the judge's questions, *check off on your check list* the points that you may have covered by answering the judge. Add to your check list any points you need to respond to that the employer or any witness (including any of your own witnesses) raise. Also add to your checklist any points raised by the judge's questions to anyone during the hearing. Cover all the points on your list, even if you cover the points only by your own testimony or in a closing statement.

Do not try to make your employer and/or supervisor look bad.

1. Resist the temptation to say bad things about your employer, supervisor and/or coworkers.

Saying your boss does something illegal may not help you, unless you can prove that it directly contradicts something he says in the hearing, or unless it convinces the judge in some other way that he should not believe your boss. If you can't somehow prove your boss is dishonest, you will not convince the judge that he should not believe your boss. You will only make a bad impression to the judge.

But you should deny anything the other side says that is not true, if only by saying "No, that is not true," or "No, I didn't do that," etc. Unless you at least deny the other side's evidence, the judge can presume that what the other side has said is true.

B. Do's and Don'ts in Responding to the Other Side

Don't cross examine

After anyone testifies, the judge will ask if the other side has any questions of the person. Asking questions after someone on the other side testifies is "cross examination." Almost always, when the judge asks if you have any questions for the witness, your answer should be "No, your honor" even though you may want to show that the other side's evidence/testimony is false.

The time to contradict the other side's evidence/testimony is not when the judge asks if you have any questions of the witness. You should show the judge that their evidence/testimony is wrong by presenting **your own** evidence (your documents and testimony and the testimony of your witnesses.)

Even though you will want to, you will probably not be able to show by cross examination that the boss or his witnesses' testimony is wrong or false. So it will only hurt your case if you ask the other side something like "You said I didn't get along with anyone else at work. Isn't it true that I had lots of friends and I got along with the guys I worked with?" The answer will be something like, "No, you didn't get along with anyone." So you just gave the other side the chance to repeat what they said, and that will guarantee that the judge remembers it.

Don't try to get the witness to change their testimony. They won't do it, and you will just give them the chance to repeat what they already said. If, as is usually the case, you don't have a document to prove they are lying, you are usually better off not asking the witness anything .

To avoid nasty surprises, do not ask a question unless you are reasonably sure how the person will answer.

Do deny what the other side has said that is wrong or false.

Instead of cross examining, you should add to your *checklist* that you need to contradict what the other side just said. On your checklist, you should write down whatever evidence, if any, that you have that may show the other side is wrong about what they said. Again, even if

you have no other evidence to support you other than your own testimony, *you should deny anything untrue that the other side says.*

For example, to show the boss is wrong about you not getting along with people, you can use a job evaluation he gave you this year saying you have good interpersonal skills. You give a copy to the judge and to your boss. Ask if the boss did the evaluation. Ask your boss if the evaluation says you have good interpersonal skills. By pointing out that the boss said one thing on your evaluation but is saying something different now, you can show the judge that the boss has contradicted himself and that he is not believable. **Do not then ask the boss if he is lying now**. Your job performance evaluation itself would tell the judge enough.

Most often you will not have a job evaluation or other document to contradict the other side. So, when it is your turn speak, you should just say that what the boss or witness said is not correct or is not true.

Wait your turn

You are not allowed to say anything in the middle of someone else's testimony. So when a witness for your boss lies through his teeth, you cannot yell at him, "That's a lie and you know it." If you have solid evidence that will show the witness is lying, you can use that evidence in cross-examining the witness (but, again, you should rarely cross-examine anyone unless you have a document that, by itself, will contradict what the person said.) You should also let your own witnesses finish answering the judge's or your own questions. If you interrupt, the judge will tell you in no uncertain terms to be quiet.

C. Finishing the Hearing

After you and the other side have answered and asked questions, the judge will first ask you and then the other side if you or they have anything to add. *This is the time to review your checklist.*

Take time to really look at the checklist. If there is anything that is not checked off, just say to the judge that you want to discuss or add something and then say what you need to about the item that is not checked off. Or if you need to, tell the judge that you would like to ask the other side a question about whatever you needed them to clarify (*but again, it is usually unwise to try to get them to change what they said or to just agree with something you want them to admit. That is different from asking them to clarify what they already said*).

Once you have checked off everything on your checklist, you have the option of making a "closing statement." A closing statement is a summary of your side of the story and why the other side is not believable or mistaken. You are not required to make a closing statement. And unless you can be very brief and clear, you should **not** make a closing statement.

If you have covered everything on your checklist and if you think the judge clearly understands your case, just say, "No, your honor" when he or she asks if you have anything to add.

III. After the Hearing (whether and how to appeal the judge's decision)

The judge will not give you his/her decision at the end of the hearing. You will receive a written decision in the mail about 10 days or two weeks after the hearing. The decision of the judge will include a statement of what the judge decided were the facts of the case, the reasons he decided the case as he did and an explanation of how to file an appeal against the decision. Read all of the papers.

If the judge decides against you, most often you will not have to do anything beyond submitting a request to appeal. The CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD ("APPEALS BOARD") will decide the appeal. The APPEALS BOARD may make a decision without you, your employer or the EDD having to do anything beyond submitting the request for appeal. That is, often no one **has** to go to another hearing, submit any documents or submit a written argument to the APPEALS BOARD.

A. How to Appeal against the Judge's Decision

You, your employer or EDD can appeal the judge's decision by submitting an appeal to the APPEALS BOARD. The request to appeal must be sent to the APPEALS BOARD no later than 20 days after the date the judge's decision was mailed (note that this does **not** mean 20 days after you received it. It means 20 days from the date the notice of decision was postmarked as mailed to you). You can appeal after the 20 days, but you will have to convince the APPEALS BOARD that you have a good reason for not appealing in time.

You can appeal by writing a letter or by using the official APPEAL FORM that is provided with the judge's decision. A copy of an appeal form is attached. If you use the official appeal form, it will tell you what you need to provide.

If you appeal by writing a letter, you cannot simply say that you disagree with the judge's decision. You will have to say what part of the judge's decision you disagree with and the specific reasons you disagree.

B. Obtain a Copy of the Hearing Tape and the Documents from the Hearing

Usually the APPEALS BOARD decides the appeal without listening to any of the parties and without considering any evidence other than the evidence that was presented during the hearing. If your employer or EDD appeal, you will want to be able to review what happened in your hearing so you can decide if you need to submit additional evidence or if you want to appear before the APPEALS BOARD.

For $5 you can obtain copies of 1) any or all of the documents in the case; 2) all or any part of the tape-recording that the judge made during the hearing; 3) a transcript of the hearing tape (if a transcript has already been prepared. You cannot demand that the OFFICE OF APPEALS make a transcript). You do not have to pay the $5 if you can show that paying would be a financial hardship for you. If you are not working and not getting unemployment, it would be a hardship to pay anything.

C. New Evidence

Anyone who wants to submit additional evidence to the APPEALS BOARD that was not presented in the original hearing must submit the new evidence within 10 days after the APPEALS BOARD sends out its Notice of Appeal. The Notice of Appeal is sent to all parties to let them know that an appeal was filed. If you try to submit additional evidence (such as a witness's testimony, a document or an affidavit you did not present to the judge in your hearing) you will have to write to the APPEALS BOARD and describe what evidence you want to present and the reasons you did not provide the evidence during the hearing.

1. New Oral Testimony

If the APPEALS BOARD decides to accept new oral testimony from you, your employer or EDD the APPEALS BOARD will not itself listen to the testimony but will assign a new or the same administrative law judge to hear it. The new hearing will be limited to considering only the issues that the APPEALS BOARD tells the judge to consider. No one will be able to completely present their case all over again. But this judge **will not** decide the entire appeal. He will just provide the APPEALS BOARD with what he thinks about the oral testimony.

2. New Documents or Affidavits

If no new oral testimony is to be taken but only additional documents or affidavits are accepted by the APPEAL S BOARD, there will **not** be an additional hearing. You and/or the other parties will, instead, be given 10 days to submit to the APPEALS BOARD written comments on the new evidence.

E. Written or Oral Argument

Usually, the APPEALS BOARD decides the appeal without any hearing of its own. It usually decides the appeal by looking only at the evidence that was considered by the judge in the hearing and by listening to the tape of the hearing. You, EDD or your employer can, however, submit an "argument" to the APPEALS BOARD. An argument is a statement of why the APPEALS BOARD should decide the appeal in the person's favor. No one is **required** to submit an argument to the APPEALS BOARD. But you, EDD or your employer can submit the argument in writing or request to meet with a member or members of the APPEALS BOARD to make an oral argument.

A request to submit either a written or oral argument has to be sent to the APPEALS BOARD within 10 days of the day that the APPEALS BOARD mails its notice that an appeal has been filed.

If the APPEALS BOARD decides to accept such oral argument, it will give you 10 days' notice of the time and place oral argument will be heard. If your employer requests oral argument, you will be given the chance to present your own oral argument. You **have** to attend the appeal hearing only if **you** were the one who requested the chance to make oral argument. If your employer asked to make oral testimony you **can but do not have to** attend the oral argument hearing.

F. Decision of the APPEALS BOARD

1. Time of Decision

For appeals in which no new testimony or evidence is considered by the Appeals Board, the Board should decide the appeal within 60 days of when the appeal was filed.

If further evidence is considered, the hearing to take the evidence must be started within 60 days after the appeal is filed, and the decision of the Appeals Board should be made within 60 days after the hearing is completed.

2. Written Decision

The Appeals Board will provide its decision in writing. The decision will state what the Appeals Board decided and will contain a statement of the facts used by the Board to make its decision and the reasons for the Appeals Board's decision. The decision is mailed to you, your employer and/or EDD, depending on who else was involved in the appeal.

3. The Decision is Final

Once the Appeals Board decides the case, the appeal cannot be re-opened, reconsidered or heard again. The decision of the Appeals Board cannot be changed, other than to correct clerical errors. The only way you, your employer or EDD can get the decision of the Appeals Board changed is by going to Superior Court. It is very hard to go to Superior Court without an attorney helping you. So how to file a suit in Superior Court is beyond the scope of this booklet. You probably need to look for an attorney at that point.