

456 CMR 12.00: GENERAL PROVISIONS

Section

- 12.01: Scope
- 12.02: Service: When Required
- 12.03: Intervention
- 12.04: Consolidation of Proceedings
- 12.05: Right to Counsel
- 12.06: Appearances
- 12.07: Postponements
- 12.08: Time: How Computed
- 12.09: Decorum
- 12.10: Other Conferences
- 12.11: Settlement of Cases
- 12.12: Filing with the Department

12.01: Scope

456 CMR 12.00 is applicable to all proceedings before the Department, except for those proceedings held pursuant to 456 CMR 18.00: *Designation of Department Agents* and 20.00: *Construction of Rules, Amendment and Publication*.

12.02: Service: When Required

- (1) Except as otherwise provided in 456 CMR, all filings shall be signed by the party or a representative of the party on whose behalf such paper is filed.
- (2) Except as otherwise provided in 456 CMR, all filings shall contain proof of contemporaneous service to all parties in the form of a statement under the penalties of perjury and shall include the date and manner of service and the name of the person served, signed by the person who made service.

12.03: Intervention

- (1) Any employer, employee, or employee organization, or person not initially a party who may be substantially and specifically affected desiring to intervene in any proceeding shall file with the Department a written motion, or may move orally at the hearing, on the record, stating the grounds upon which such employee, employer or employee organization or person claims to be interested. Such written motion shall be filed at or prior to the first day of hearing in any proceeding, except for good cause shown.
- (2) At the discretion of the Department, any employer, employee, employee organization, or other entity may be allowed to intervene.
- (3) Any intervenor shall have the rights of a party to present evidence at any proceeding, subject to the discretion and limitations imposed by the Department, which shall consider the potential for delay and unnecessary duplication of evidence.

12.04: Consolidation of Proceedings

If there are multiple proceedings at the Department involving common issues, a party shall notify the Department, stating with particularity the common issues. The Department may, in its discretion, consolidate the proceedings.

12.05: Right to Counsel

Any party to a proceeding may appear on the party's own behalf, or, in accordance with 456 CMR 12.06, may be accompanied, represented and advised by counsel or other representative at any conference, investigation or hearing.

## 456 CMR: DEPARTMENT OF LABOR RELATIONS

### 12.06: Appearances

- (1) Every representative of a party shall enter an appearance with the Department. Every party shall designate one representative for the purpose of receiving notice, pleadings or service of process.
- (2) An appearance may be withdrawn only with the permission of the Department. A request to the Department to withdraw an appearance shall be made in writing, served upon both the party on whose behalf the representative has appeared and upon representatives of all other parties to the proceeding.
- (3) The filing of an appearance shall not operate as a waiver to any challenge to the Department's jurisdiction.

### 12.07: Postponements

Requests for postponements of scheduled hearings, investigations or conferences shall not be granted unless good cause is shown and the following requirements are met:

- (1) The postponement request shall be made in writing to the Director or the hearing officer at least three days prior to the scheduled hearing, investigation or conference.
- (2) The grounds for the postponement request shall be set forth in detail.
- (3) The requesting party shall specify alternate dates for rescheduling the hearing or conference.
- (4) The position of all parties concerning both the postponement request and the proposed alternate dates shall be ascertained in advance by the requesting party and set forth in the postponement request.
- (5) For the purpose of 456 CMR 12.07(1) through (6), at the discretion of the Department, good cause may include a proffer that a postponement will result in settlement of the case.
- (6) Absent good cause, the Department shall not grant more than one postponement request to each party preceding the date of each hearing, investigation or conference.

### 12.08: Time: How Computed

- (1) Unless otherwise specifically provided by 456 CMR or other applicable law, computation of time under 456 CMR 12.00, shall begin with the first day following the act, event or default that initiates the running of the time period. The last day of the time period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next business day.
- (2) Whenever a party has the right or is required to do some act within a prescribed period of time, if the Department serves notice of such right or requirement by mail, the Department shall presume that the party received notice thereof three days from the date of issuance of such notice. If the Department serves notice of such right or requirement electronically, the Department shall presume that the party received notice thereof on the date of electronic transmittal. The presumption may be rebutted by evidence of later receipt.
- (3) For good cause shown, the Department may, within its discretion, extend any deadline for filing under 456 CMR.

### 12.09: Decorum

- (1) All parties and their representatives, witnesses or other persons present at any proceeding shall conduct themselves in a manner consistent with the standards and decorum commonly observed in any court. Where such decorum is not observed, the Department may take appropriate action which may include, but is not limited to, excluding a disruptive person from the proceeding, if such person is a party, to allow participation by the party's representative only.

12.09: continued

(2) Failing to observe such decorum by any representative appearing before the Department may be grounds for immediate exclusion from the hearing, conference or other proceeding at which the representative is appearing, or may be grounds for suspension or debarment from practice before the Department. Suspension or debarment determination, and the length thereof, may be made by the Department only after due notice and a hearing.

12.10: Other Conferences

Nothing in 456 CMR 12.00 shall be construed so as to prohibit or limit the Department from holding a conference or investigation at any time in connection with any matter pending before the Department.

12.11: Settlement of Cases

The Department may suggest settlement ideas to the parties at any time and may require the Parties to participate in settlement conferences.

12.12: Filing with the Department

(1) 456 CMR 12.12 prescribes the method for all filings with the Department. Unless otherwise specifically excluded from 456 CMR 12.12, all references to service, sending, mailing or filing in 456 CMR are governed by 456 CMR 12.12. Where the Department has prescribed specific forms for petitions, charges, or any other filings, parties and representatives shall utilize the forms, regardless of the method used to file them.

(2) All pleadings, written motions, briefs or memoranda filed by any party in connection with any matter pending before the Department shall be on paper measuring 8½ inches in width and 11 inches in length.

(3) All pleadings, written motions, briefs and memoranda shall be typed and double spaced.

(4) All documents shall be deemed filed with the Department on the same business day if received before 11:59 P.M. Any documents received after 11:59 P.M. shall be deemed to be filed on the following business day.

(5) The Department permits filing by hand delivery, electronically, by mail delivery, and by facsimile (fax) transmission. However, showing of interest evidence and written majority authorization evidence may not be filed electronically or by facsimile transmission.

(6) Unless otherwise indicated, a fax copy shall constitute an original for all Department purposes. Documents to be transmitted by fax shall bear the notation: SENT on (DATE) VIA FAX FOR FILING WITH THE DEPARTMENT.

(7) All documents filed by electronic mail (email) shall be in portable document format (PDF) and shall comply with the requirements set forth in 456 CMR 12.12. Unless otherwise indicated, an electronic mail copy shall constitute an original for all Department purposes.

(a) Transmittal Email. All documents filed as email attachments shall include a transmittal email, identifying the nature of the filing, the parties, and docket number if assigned.

(b) Parties and Representatives. All electronically filed documents shall include a signature block and shall set forth the individual's name, address, telephone number and email address or the representative's name, address, telephone number and email address. On the signature line above the signature block on the document to be electronically filed, "/s/" shall be typed followed by the name of the party or the representative in the space where the signature would otherwise appear. For example:

/s/ John B. Doe  
John B. Doe  
123 Main Street  
Boston, MA 02210  
617-123-4567  
[johnbdoe@isp.com](mailto:johnbdoe@isp.com)

12.12: continued

(c) Multiple Signatures. The filer of any document requiring more than one signature (*e.g.*, stipulations, joint motions, joint status reports, *etc.*) shall list thereon all the names of other signatories by means of a signature block for each signatory. For example:

/s/ John B. Doe  
John B. Doe  
123 Main Street  
Boston, MA 02210  
617-123-4567  
[johnbdoe@isp.com](mailto:johnbdoe@isp.com)

/s/ Jane M. Doe  
Jane M. Doe  
123 Main Street  
Boston, MA 02210  
617-123-4567  
[janemdoe@isp.com](mailto:janemdoe@isp.com)

/s/ Attorney John A. Smith  
John A. Smith BBO#123456  
123 Main Street  
Boston, MA 02210  
617-987-6543  
[jasmith@internetprovider.com](mailto:jasmith@internetprovider.com)

By submitting such a document, the filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has the other signatories' actual authority to submit the document electronically. A non filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures shall file an objection to the document within 14 days of the filing date, or of receiving actual knowledge of the filing.

(d) Affidavits. Affidavits may be filed electronically; however, the electronically filed version shall contain a "/s/ name of signatory" block, as above, and indicate that the paper document bears an original signature.

(e) A filing party shall limit the size of each PDF to no more than two megabytes. Multiple PDFs may be filed if the document exceeds the two megabyte limit.

(f) The filer is required to verify the readability of scanned documents before filing them electronically with the Department.

## REGULATORY AUTHORITY

456 CMR 12.00: M.G.L. c. 23, §§ 9O, 9R, 9T(c) through (e); c. 30A, §§ 10, 11, 12; c. 150A, § 8; and c. 150E, §§ 11 and 15.