

**ET Handbook 382  
Second Edition  
June 1996**

**HANDBOOK  
FOR  
MEASURING  
UNEMPLOYMENT INSURANCE  
LOWER AUTHORITY APPEALS  
QUALITY**

**U.S. DEPARTMENT OF LABOR  
EMPLOYMENT AND TRAINING ADMINISTRATION  
UNEMPLOYMENT INSURANCE SERVICE**

## TABLE OF CONTENTS

I. INTRODUCTION .....	1
II. QUARTERLY EVALUATIONS .....	3
A. SAMPLING .....	3
B. ASSEMBLY OF CASE FILES .....	4
C. CASE EVALUATION AND SCORING .....	4
D. REPORTING .....	5
III. UIS REVIEW OF STATES' QUARTERLY SELF-EVALUATIONS .....	6
A. REVIEW OF THE FIRST TWO QUARTERLY SELF-EVALUATIONS .....	6
B. SUBSEQUENT UIS ANNUAL REVIEWS .....	6
C. SCHEDULE OF ACTIVITIES .....	7
IV. CRITERIA FOR MEASURING THE QUALITY OF LOWER AUTHORITY APPEALS HEARINGS AND DECISIONS .....	8
1. Pre-hearing/pre-testimony explanation .....	9
2. Opening Statement .....	11
3. Exhibits .....	12
4. Witnesses .....	14
5. Order of Testimony from Each Witness .....	16
6. Opportunity to Question Own Witness(s) .....	18
7. Clear language .....	19
8. Single point questions .....	20
9. Clarification of statements, which include conclusions .....	21
10. Confrontation .....	23
11. Cross-examination .....	24
12. Repetitive testimony and/or irrelevant testimony .....	26
13. Leading questions .....	27
14. Control of interruptions .....	28
15. Off the record .....	29
16. Interpreters .....	31
17. Continuances .....	33
18. Closing the hearing .....	35
19. Hearing within scope of notice .....	37
20. Gratuitous Comments .....	39
21. Attitude .....	40
22. Bias and prejudice .....	41
23. Obtain reasonably available evidence .....	42
24. Issues clearly stated .....	43
25. Findings supported by substantial evidence .....	44
26. Findings of fact .....	46
27. Required conclusions .....	48
28. Logical reasoning .....	49
29. Form, style and organization .....	51
30. Decision states legal effect .....	52
31. Understandable decision .....	54
UIS ANNUAL REVIEW CRITERIA .....	57
ANNUAL REVIEW 1. Notice of Hearing .....	59
ANNUAL REVIEW 2. Finality date and further appeal rights .....	61
ETA 9057, STATE EVALUATION SCORE SHEET .....	63

## I. INTRODUCTION

The U.S. Department of Labor's responsibility for the oversight of the quality of the States' unemployment insurance (UI) appellate processes is grounded in the Social Security Act (the Act). Subsections 302(a) and 303(a) and (b) of the Act provide for payments to the States to assist in the administration of their unemployment compensation laws only if the Secretary of Labor certifies that certain conditions have been met. These provisions of the Act (42 U.S.C. 502 and 503) are set forth, in part, below:

Sec. 302. (a) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made, ...

Sec. 303.(a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act includes provision for- ...

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due, and ...

(3) Opportunity for a fair hearing , before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; ...

(b) Whenever the Secretary of Labor, after a reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law finds that in the administration of the law there is- ...

(2) a failure to comply substantially with any provision specified in subsection (a); the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such denial or failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State. ...

The above establishes the Secretary of Labor's authority and responsibility for oversight of the States' UI appellate processes. A need to measure the quality of lower authority appeals logically follows from this authority and responsibility. The criteria in this Handbook are derived from the above provisions of Federal law, and States must meet these criteria to assure that State lower authority appeals operations conform and comply with Federal law.

The Lower Authority Appeals Quality Criteria (See pages 9-59) were developed as a part of the Performance Measurement Review (PMR) project. These criteria are the culmination of a coordinated effort by the Unemployment Insurance Service (UIS), its contractors, and most importantly, a large number of State UI appeals experts from States across the country. Final

revisions of the criteria were made through consultations with the appeals officials in the six Field Test States, California, Illinois, Kansas, Missouri, New Hampshire, and Wisconsin.

These criteria are a refinement of the criteria in the first edition of ETA Handbook No. 382, August 1980. Their purpose is the same as those in the first ETA Handbook No. 382: to measure the quality of the lower authority appeals processes in the several States. This measurement is done to ensure a high quality lower authority appellate process in each of the States that is fair and provides procedural due process of law to all interested parties, and is sound, practical, and cost effective.

There were two frequently expressed criticisms of the criteria in the 1980 edition of Handbook 382. First, some of the criteria were too subjective; second, it was possible for one or more fundamental procedural due process rights to be denied and a case still receive a passing score. These new criteria attempt to address those criticisms.

It should be recognized that it probably is not possible to craft criteria that are perfectly objective. The function of the UI hearing officer is to exercise judgement in an infinite number of situations involving the human experience. In such a setting there probably are not absolutely correct answers upon which all reasonable persons can agree. This instrument attempts to minimize variance in scoring among reviewers for similar events or non-events for each of the elements to maximize scoring consistency. Consistent scoring repeated over time will increase the reliability of the results obtained from the use of this instrument. Evaluators and other observers should also keep in mind that hearing officers are frequently required to react to a situation and make an immediate ruling, without the luxury of even a few minutes to consider and reflect on all the possible alternatives for dealing with a unique situation or person.

The three components of the system for measurement of the quality of the States' lower authority appellate processes are described below.

Component 1 (State Self-Evaluation). This component measures the overall quality of the case. The State evaluator determines if "good", "fair", "unsatisfactory", or "did not occur" should be assigned to each of 31 criteria. Then, a percentage score for the entire case is calculated.

Component 2 (Identification of Number of Cases Failing "Due Process" Elements). This component is an additional evaluation of the previously scored cases to determine if an "unsatisfactory" score was given on any of the 8 criteria, which address the fundamental elements of "due process" and "fair hearing". Since these 8 elements are part of the 31 criteria scored in Component 1, no new scoring is necessary. From each sample of cases, the number of cases identified as having failed the "due process" component will be reported.

Component 3 (Annual UIS Review). Each year UIS will review sub-samples of the cases the States have evaluated. As part of this annual review the State's hearing notices and information provided to the parties about further appeal rights will be evaluated.

Other major differences in this new performance measurement process from the one mandated in the first edition of ETA Handbook No. 382 are sample sizes and frequency of self-evaluations and UIS reviews. With the implementation of the new measures, a subsample of each State's quarterly self-evaluations will be reviewed by UIS each year. Beginning October 1, 1996, all States (except those with a workload of more than 40,000 decisions in the prior fiscal year) will review a minimum of 20 randomly selected cases from each of the four quarters of the fiscal year (See below for sampling methodology.). This is the minimum sample size needed for statistical validity of the results. The States, with annual workloads exceeding 40,000 cases will be required to select a 40 case sample per quarter to assure accurate results. The determination of sample size (20 or 40 cases per quarter) for each State for the calendar year will be made prior to end of the first quarter of each calendar year, based on the workload during the prior calendar year.

## **II. QUARTERLY EVALUATIONS**

### **A. SAMPLING**

A minimum random sample of 20 cases (40 for States with annual workloads greater than 40,000) will be drawn and evaluated each quarter. These samples are not stratified. The evaluation should be completed and the results reported no later than the 20th day of the second month following the end of each quarter (e.g., for the quarter ending September 30, report no later than November 20). The sample should be drawn from the cases decided in the previous quarter. For example, in October, at least 20 (or 40) cases decided between July 1 and September 30 will be evaluated.

States which maintain automated records of appeals decisions may draw the quarterly sample using either random file or systematic sampling methods. States which do not maintain automated records of appeals decisions must use a manual systematic sampling approach by counting the total number of appeals decisions for the quarter, calculating the sampling interval and manually selecting the appropriate appeals decisions for review. More complete and detailed information about sampling is provided in Unemployment Insurance Reports Handbook, ET Handbook 401, Appendix A.

The three skeleton data elements (See UIPL 10-96 and Handbook 401 for descriptions) for each case selected must be entered in the electronic reporting system by the 15th day of the first month of each quarter, so that the validity of the sample size and sampled universe can be confirmed by UIS.

## **B. ASSEMBLY OF CASE FILES**

A case file for each case in the sample should be assembled. This file should contain, at a minimum, a copy of: (1) the determination that was appealed, (2) the appeal, (3) the notice of hearing, (4) the tape recording of the hearing, (5) all exhibits introduced at the hearing, and (6) the hearing officer's decision. The files for the cases in the sample should be assembled as soon as possible after the end of the quarter so that the evaluation of the cases can be completed prior to the required reporting date.

## **C. CASE EVALUATION AND SCORING**

The case evaluations should be done by individuals who are thoroughly familiar with the lower authority appeals process and the Criteria, preferably individuals who are experienced supervisors of hearing officers. The evaluations should be done in a way to ensure that the evaluator(s) can devote full attention to this activity with a minimum of interruptions. Interruptions during the evaluation of an individual case frequently necessitate listening to the tape a second time in order to be able to accurately assign scores to the individual criteria. The evaluator(s) should exercise every effort to be consistent in their scoring of each case and if a State uses multiple evaluators, efforts should be made to achieve consistency among them. Each evaluator will have to ascertain how many cases can be evaluated per day without becoming inattentive, and how much time can elapse between doing evaluations before it becomes difficult to recall how a similar occurrence was scored in a case previously evaluated.

After making note of the time, the evaluator should examine the appeal filed and the notice of hearing, listen to the tape recording of the hearing, examine any exhibits, read the decision and then complete a score sheet (page 53) for each case being evaluated.

The scoresheet must be completed carefully because it will be used as the supporting document for electronically reporting the results of the evaluation. First, complete the header information on the score sheet (ETA 9057). Specific instructions about the four data elements in the header are in Section V-8-F of Handbook 401. Second, score each of the criteria (1-31) by marking the appropriate score in the columns provided. It is recommended that the sum of each column be calculated and entered on Item 32. This will aid in verifying the accuracy of the data entry when the results are electronically reported. In Item 33, indicate whether the Hearing Officer's decision resulted in the potential allowance or denial of benefits. In Item 34, indicate whether the decision affirms, reverses or modifies the determination that was the subject of the appeal. In Item 35, record the date the decision was mailed to the parties. In Item 36, record the date the decision was implemented. More specifically, the date all payable benefits were released, the date benefit payment was stopped or whatever other action called for by the decision was completed by the agency. In Item 37, record if all the necessary case materials were available to the evaluator, if one or more necessary documents were missing, or if the tape recording of the hearing was unavailable or inaudible. If the decision is missing and/or the tape recording is missing or inaudible, the case should not be scored, but whatever data is available for Items 33 through 38

should be recorded and reported. Cases that are not scored because of loss of the decision or the tape recording will not be included in the calculation of the percentage of cases "passing" for the quarter or the year. In Item 38, record the time in minutes, from start to finish, that was used by the evaluator to conduct the evaluation including the time used to complete the ETA 9057.

To determine the percentage score for a case, first calculate the sum of the scores recorded in each of the "Good", "Fair", "Unsatisfactory", and "Did Not Occur" columns of the scoresheet. Second, subtract the sum of the "Did Not Occur" scores from 192 (maximum possible total points) to derive the number of points possible for the particular case. Third, add the points scored in the "Good" column and the points scored in the "Fair" column. Fourth, multiply the result of the third step by 100, then divide by the result of the second step. This result is the percentage score for the case. (See formula below) Even though the percentage score will be electronically calculated when the data is reported to UIS, evaluators should make this calculation so they will have immediate knowledge of the quality of the case, and so it can be used later as an additional check of the accuracy of the data entry.

$$\frac{\text{Total Points}^1 \times 100}{\text{Possible Points}^2} = \text{Percentage Score}$$

**1. Total Points = Total "Good" + Total "Fair"**

**2. Possible Points = 192 - "Did Not Occur" points**

The electronic reporting system will automatically calculate the percentage score for the case after the score for each criterion has been entered. It will also identify any Critical Fair Hearing & Due Process Criteria that were scored "Unsatisfactory". Evaluators should be mindful that they need to complete the evaluations in time for the data to be electronically reported no later than the 20th day of the second month following the end of each quarter. For example, for the quarter ending September 30, report no later than November 20.).

#### **D. REPORTING**

The data recorded on the evaluation score sheets (ETA 9057) will be entered in the State's electronic reporting system and transmitted to the UIS required reports database. The results of each quarterly evaluation are to be electronically recorded for transmittal to UIS as described in the latest edition of Unemployment Insurance Reports Handbook, ET Handbook 401 and UIRR Users' Manual, ET Handbook 402. From this database, a variety of reports will be generated to be used in the analysis of performance. The evaluations should be completed and the results entered in the database and transmitted to UIS no later than the 20th day of the second month following the end of each quarter. For example, for the quarter ending September 30, report no later than November 20.).

### **III. ANNUAL REVIEW OF STATES' QUARTERLY SELF-EVALUATIONS**

## **A. REVIEW OF THE FIRST TWO QUARTERLY SELF-EVALUATIONS**

To ensure proper implementation of the new quarterly measurement system, there will be an annual review, in March or April 1997, of a subsample of the self-evaluations done by the States for the quarters ending September 30, 1996 and December 31, 1996. Each State will submit an electronically selected subsample of its evaluations for the quarters ending September 30, 1996 and December 31, 1996 for review. The purpose of this review is to ensure consistent interpretation of the criteria by the several States, and to determine if additional training or technical assistance may be needed. The review will be done by a panel of State UI hearing officers selected from individuals nominated by the SESAs. In addition to reviewing the self-evaluations done by the State, there will be an examination of two more quality criteria, the quality of the notice of hearing and the quality of the information provided to parties about further appeal rights.

As soon as a State has drawn and "locked the skeleton fields" for its quarterly sample for the quarter ending December 31, 1996, (no later than January 15, 1997), the subsample for the annual review will be drawn automatically. This subsample will be either 10 or 20 cases depending on State workload. The States will use the Unemployment Insurance Required Reports (UIRR) electronic reporting system on the State SUN computer to determine which of their sample cases are required for the annual review. (See ET Handbook 402, UIRR Users' Manual, for details on how to view the list of cases for the review subsample. The State's SUN system administrator will have a copy of ET Handbook 402, if it is not available in the appeals unit.) The case materials for each of these subsample cases should be assembled and sent to the following address no later than March 1, 1997: U.S. Department of Labor, Unemployment Insurance Service, Attn: Appeals Review, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Each case sent should include copies or facsimiles of any materials and/or information routinely sent to the parties to an appeal from the time the appeal is filed through and including the time the decision is mailed plus copies of: (1) the determination that was appealed, (2) the appeal, (3) the notice of hearing, (4) the tape recording of the hearing, care should be taken to ensure that the copied tape is an accurate and complete copy (only one hearing per copied tape), (5) all exhibits introduced at the hearing, (6) the hearing officer's decision, and (7) the scoresheet completed by the State evaluator. Following the review process, these materials and the reviewers' score sheets findings will be returned to the State via the appropriate Regional Office.

## **B. SUBSEQUENT ANNUAL REVIEWS**

After the initial review described above, a similar review of the self-evaluations by each State will be done annually by UIS. Each State will submit by March 1 each year, an electronically selected subsample of its four quarterly evaluations for the prior calendar year for review. In all other respects the Annual Review will be the same as the review described above.



The purpose of these annual reviews is to ensure consistent interpretation of the criteria by the several States, to ensure that fair hearings are being provided by all States, and to identify areas where training or technical assistance may be needed.

### C. SCHEDULE OF ACTIVITIES

DATE	ACTIVITY
July 1, 1996	Beginning of first quarter to be sampled using new methodology.
Sept 30, 1996	End of first quarter to be sampled using new methodology. As soon as possible after September 30, draw sample for self-evaluation.
Oct 1, 1996	Beginning of second quarter to be sampled using new methodology.
Oct 15, 1996	Deadline for entry of "skeleton fields" for sampled cases, so that validity of sample can be checked.
Nov 20, 1996	Deadline for reporting data on evaluation of sampled cases.
Dec 31, 1996	End of second quarter to be sampled using new methodology. As soon as possible after December 31, draw sample for self-evaluation.
Jan 1, 1997	Beginning of first quarter to be sampled for calendar year 1997.
Jan 15, 1997	Deadline for entry of "skeleton fields" for sampled cases, so that validity of sample can be checked.
Feb 20, 1997	Deadline for reporting data on evaluation of sampled cases.
Mar 1, 1997	Deadline for submitting subsample of cases to UIS for Annual Review of first two quarterly self-evaluations.
Prior to Mar 31, 1997	Sample sizes for States' quarterly samples for calendar year 1997 will be determined.
Mar 31, 1997	End of first quarter to be sampled for calendar year 1997.

*Follow the same pattern of activities each quarter as has been outlined for previous quarters.*

April 1997	Review of subsamples of States' first two quarterly self-evaluations.
------------	---

#### **IV. CRITERIA FOR MEASURING THE QUALITY OF LOWER AUTHORITY APPEALS HEARINGS AND DECISIONS.**

The criteria for evaluating the quality of hearings and decisions are set forth in their entirety on the following pages. The first thirty-one of these criteria will be used by the States for their quarterly self-evaluations. There are two additional criteria addressing notices of hearing and information about further appeal rights that will be evaluated by UIS during the annual UIS review.

CRITERIA FOR HEARINGS

1. Pre-hearing/pre-testimony explanation.

At the start of the hearing, the Hearing Officer should clearly explain the procedures to be followed. The elements shall be covered in the taped prehearing explanation or in a taped opening statement. The explanation must be clearly stated and delivered in an understandable manner.

Good (6):

After tape recording began and before testimony was taken, the hearing officer clearly explained the hearing procedures. This explanation included: (a) the order of testimony, (b) the right to question witnesses, and (c) an opportunity for each of the parties to ask questions about the hearing process or procedures before proceeding with the hearing. SEE NOTES BELOW FOR CASES WHERE ONLY ONE PARTY APPEARS.

Fair (3):

The Hearing Officer explained two of the elements (a) through (c).

Unsatisfactory (0):

The Hearing Officer explained only one or none of the elements (a) through (c).

Did not occur (6):

A "Did Not Occur" score should be given if it is clear from the record that the parties and/or their representatives were fully familiar with the UI hearing process and the Hearing Officer omitted the explanation for this reason.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 1.

The intent of this criterion is to ensure that the parties understand how the hearing will be conducted and the rights and opportunities they will have to participate in the hearing. Compliance with this criterion also minimizes the possibility of a remand if a party on further appeal asserts lack of understanding of the hearing process for failure to fully present his/her case.

**Criteria 1 & 2 are closely related and it is permissible for the hearing officer to intermingle the elements of the two criteria, if all necessary elements of both are present.**

**A rapid or "machine gun" opening statement should be scored down to fair or unsatisfactory based on its understandability or the ability of the parties to assimilate the information being provided.**

**An "Unsatisfactory" score will be given if the Hearing Officer adequately covered only one or none the elements or if the explanation is not tape recorded.**

**Concurrence by the parties that the explanation was done off the tape recorded portion of the hearing is insufficient and should result in an unsatisfactory score.**

**TO ACHIEVE A "GOOD" SCORE IN CASES WHERE ONLY ONE PARTY APPEARS AND THERE ARE NO WITNESSES FOR THAT PARTY, THE HEARING OFFICER SHOULD EXPLAIN THE HEARING PROCESS AND ASK IF THERE ARE ANY QUESTIONS BEFORE PROCEEDING WITH THE HEARING .**

**2. Opening Statement.**

**The opening statement should include the identification of the parties and participants at the hearing, the date, the place of hearing, the Hearing Officer, the determination appealed, and the issues to be considered at the hearing.**

**Good (6):**

**Before taking testimony the Hearing Officer identified: (a) him or herself, (b) the persons present at the hearing, (c) the place and date of the hearing (or that it was a telephone hearing), and (d) the determination appealed and the issues that would be considered.**

**Fair (3):**

**The Hearing Officer omitted one of the elements (a) through (d).**

**Unsatisfactory (0):**

**The Hearing Officer omitted two or more of the elements (a) through (d).**

**Did Not Occur (X)**

**Not applicable - Do not use.**

\*\*\*\*\*

**REFERENCE NOTES - CRITERION 2.**

**The intent of this criterion is to ensure that the Hearing Officer clearly sets forth the administrative details and/or case history at the beginning of the hearing and identifies the issue or issues that will be taken up at the hearing.**

### 3. Exhibits.

**The Hearing Officer should handle exhibits correctly.**

#### Good (6):

The Hearing Officer correctly handled exhibits in that s/he:

- (a) described and marked all exhibits.
- (b) allowed parties to review the exhibits and offer objections. When a party appears by telephone and a document is read into the record as a proposed exhibit, the party was allowed to offer objections to the document.
- (c) authenticated offered exhibits (to the extent possible) where questionable or challenged. Documents which are not "part of the agency file" may need proper foundation.
- (d) received all competent, relevant and reasonably available exhibits.
- (e) gave an explanation if s/he denied admission of any of the proposed exhibits.
- (f) ruled on the admissibility of any documents read into the record as proposed exhibits.

#### Fair (3):

The Hearing Officer received all competent relevant and reasonably available exhibits and showed them to the parties, but did not fully describe them or correctly mark them. The Hearing Officer provided the parties with an opportunity for objection to the introduction of them and for questions and rebuttal as to their contents.

#### Unsatisfactory (0):

The Hearing Officer (a) denied the introduction of exhibits without giving an appropriate reason(s) for such denial, (b) did not show exhibits received to the other parties, (c) failed to enter agency exhibits which were referred to in hearing or decision and which were competent, relevant and material, or (d) failed to offer an opportunity to object to the admission of an offered exhibit.

#### Did not occur (6):

There were no exhibits tendered, marked or introduced, or no documents made reference to in statements or testimony that should have been marked or introduced.

### **REFERENCE NOTES - CRITERION 3.**

**The intent of this criterion is to ensure that the Hearing Officer builds as complete a record as possible including all competent, relevant, and material exhibits that are available; that the exhibits are properly described, authenticated, marked and entered into the record, and that the parties are made aware of their contents and provided with the opportunity to object, explain or rebut. The requirements are the same for in-person and telephone hearings. Telephone hearing exhibits will be sent to each of the parties prior to the hearing and, if a party does not have all of the documents marked as exhibits, the matter may be continued to allow opportunity to review and object. (See Criterion 17)**

**In either an in-person or telephone hearing the parties should be offered the opportunity to see and review the documents or to be mailed the documents and offer post-hearing objections if provided for in the appeals process.**

**The exhibit should be described sufficiently to identify it for the record. It should be authenticated (to the extent possible) if it is suspect or challenged. It is not necessary to authenticate agency documents created or obtained in the claim processing, such as fact finding or separation reports. The hearings officer shall determine the weight given challenged agency documents.**

**The record should reflect that the parties had an opportunity to review the exhibits prior to their being received into evidence. The Hearing Officer may state "I have allowed the parties to read and review the documents that I have marked as exhibits" or ask the question of the parties, "Mr. Claimant, have you had the opportunity to read the letter I marked as Exhibit 1?" The record must affirmatively show that the parties were given the opportunity to examine the document.**

**The exhibit should be clearly marked with the exhibit number or identification. It should be received if competent and relevant if there are no objections, or after the objections have been ruled on.**

**The Hearing Officer should assume the responsibility to introduce on his/her own motion exhibits that are competent, relevant, and material to the issue but are not introduced by the parties. Common among these would be documents that are in agency files. It is important to realize that the Hearing Officer cannot consider in his/her decision-making process any document that was not properly entered.**

**Jurisdictional documents, such as the decision appealed, the request for hearing and the notice of hearing, need not be entered as exhibits because they are not really considered in the decision-making process. The score will not be reduced if the Hearing Officer does mark and enter them. If the jurisdictional documents are material to the disposition of the case, they must be entered as exhibits, such as the request for hearing when the issue is whether the request for hearing was timely filed.**

4. Witnesses.

**Parties and witnesses should be called and sworn, and the evidence developed, in logical order.**

Good (6):

**The order was reasonable and flexible depending on the circumstance of each case. Unless a fixed order was necessary, generally the party with the most knowledge proceeded first. For example: in voluntary quit issues, the claimant proceeded first; in misconduct issues, the employer proceeded first.**

**The Hearing Officer also generally avoided jumping back and forth between witnesses and issues. A brief question of the party not testifying to clarify an issue or to determine whether further foundation or explanation was necessary will not result in deduction.**

Fair (3):

**The Hearing Officer permitted the introduction of some testimony in illogical sequence, but did not substantially jeopardize the organization of the hearing and the presentation of evidence.**

Unsatisfactory (0):

**The Hearing Officer did not call witnesses or did not swear in witnesses or did not take evidence in any logical order.**

Did not occur (6):

**The evidence was submitted without witnesses or sworn testimony.**

\*\*\*\*\*

REFERENCE NOTES - CRITERION 4.

**The intent of this criterion is to move the hearing to a conclusion in a logical and orderly manner. Therefore, as a general rule, the party with the most information should be called to testify first. However, the Hearing Officer should be allowed to exercise reasonable discretion in directing the order which must be flexible and dependent upon the particular circumstances of each case.**



**If a State has a court ruling or some other authority which dictates the order of proof, then that ruling takes precedence and must be applied. The rating should be "Good" where it has been applied.**

**Witnesses must testify under oath or affirmation. In distinguishing between the "Good" and the "Fair" rating, the evaluator must decide whether the Hearing Officer exercised reasonable discretion in determining the order of proof. That decision generally should be based on who is most knowledgeable about the case. The order should produce an easy flow of information and fact finding without the Hearing Officer resorting to aimless jumping back and forth between witnesses.**

**The "Fair" rating should be scored where the Hearing Officer failed to meet the "Good" criteria in some instances, but in a manner which did not seriously affect the fact-finding process. However, for the most part the Hearing Officer adhered to a logical sequence of testimony.**

**For the "Unsatisfactory" rating, the Hearing Officer lacked sound judgment in the order of proof, thereby prolonging the hearing unnecessarily, failed to swear in or call a witness(s), or jumped back and forth between witnesses and/or issues.**

**5. Order of Testimony from Each Witness.**

**The evidence from each witness should be developed in a logical order.**

**Good (3):**

As each witness testified, the evidence was developed in a logical and orderly manner, although the Hearing Officer was flexible as required by the circumstances.

**Fair (1):**

The Hearing Officer permitted the introduction of some evidence in illogical sequence, but did not substantially jeopardize the organization of the hearing and the presentation of evidence. The Hearing Officer generally completed one line of inquiry before moving on.

**Unsatisfactory (0):**

The Hearing Officer did not take the evidence in logical order and sequence.

**Did Not Occur (X)**

Not applicable - Do not use.

\*\*\*\*\*

**REFERENCE NOTES - CRITERION 5.**

The intent of this criterion is to move the testimony of each witness to a conclusion in a logical and orderly manner.

Witnesses must testify under oath or affirmation. In distinguishing between the "Good" and the "Fair" rating, the evaluator must decide whether the Hearing Officer exercised reasonable discretion in determining the order and sequence of the testimony. The order should produce an easy flow of information and fact finding without the Hearing Officer or the witness resorting to aimless jumping back and forth between areas of the testimony.

The "Fair" rating should be scored where the Hearing Officer failed to meet the "Good" criteria in some instances, but in a manner which did not seriously affect the fact-finding process.

**For the "Unsatisfactory" rating, the Hearing Officer lacked sound judgment in allowing or directing the testimony, thereby prolonging the hearing unnecessarily, failed to swear in a witness(s), or jumped back and forth between elements of testimony with the witness.**

6. Opportunity to Question Own Witness(s)

CRITICAL FAIR HEARING &  
DUE PROCESS ELEMENT

The Hearing Officer must provide parties and representatives with a timely opportunity to question their own witnesses.

Good (9):

Where necessary, the Hearing Officer informed the parties that they or their representatives could question witnesses in the party's own behalf. Where necessary, s/he assisted such party or representatives in framing questions and cautioned them not to make statements or arguments.

Fair (3):

Although the Hearing Officer advised parties who were not represented by counsel that they could question their own witnesses, s/he failed to assist when appropriate, or they were not allowed to question their own witnesses in a timely manner.

Unsatisfactory (0): F

The Hearing Officer failed to provide parties the opportunity to question their own witnesses.

Did not occur (9):

The parties did not have witnesses to question or it was not necessary to inform them of this right, e.g., a party was represented by counsel or an experienced representative.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 6.

The intent of this criterion is to ensure that the Hearing Officer has provided the parties or their representatives the right to question their own witnesses in a timely manner as some parties may be unaware of this right.

It is also the responsibility of the Hearing Officer to provide the parties with whatever assistance they need to question witnesses in a timely and proper manner.

7. Clear language.

**Throughout the hearing, the Hearing Officer should use language that is clear and understandable, avoiding unnecessary legal phrases and technical language.**

Good (6):

The Hearing Officer's language was clear and understandable in all but inconsequential instances. There was no unnecessary use of legal phrases or technical language.

Fair (3):

There were minor instances when the Hearing Officer's language was not clear and understandable or legal phrases or technical language was used. "Minor instances" would be confined to those that would not have a significant bearing on the outcome of the case.

Unsatisfactory (0):

The Hearing Officer's language was not clear and understandable in significant and critical areas or unnecessary legal phrases and technical language was used.

Did Not Occur (X)

Not applicable - Do not use.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 7.

The intent of this criterion is to ensure that all language to participants is clear and understandable and not misinterpreted and that they are not confused by or not able to understand legal phrases or technical language.

References to form numbers and agency jargon should be avoided.

**8. Single point questions.**

**Each question by the Hearing Officer should express only one point.**

**Good (6):**

The Hearing Officer's questions expressed only one point and, if more than one point was expressed, it was corrected.

**Fair (3):**

Occasionally, the Hearing Officer asked a question with more than one point, but it did not interfere with the development of the testimony or did not result in the evidence being unclear on any dispositive element.

**Unsatisfactory (0):**

The Hearing Officer repeatedly asked questions containing two or more points that confused the witnesses.

**Did Not Occur (X)**

Not applicable - Do not use.

\*\*\*\*\*

**REFERENCE NOTES - CRITERION 8.**

Questions should express one point only so that neither the question nor the answer will be misunderstood. For example, a compound question such as "Was John Doe your supervisor and did he discharge you?" would be unlikely to produce a clear answer. Hearing officers should avoid compound questions and carefully tailor the questions to express one point only. Likewise, the Hearing Officer should not permit parties or their representatives to ask compound questions without making a reasonable attempt to clarify the question and/or the response.

9. Clarification of statements, which include conclusions.

**The Hearing Officer should attempt to clarify statements which include conclusions, opinions and ambiguous or unclear testimony.**

Good (6):

**When the witness responded with an opinion or conclusion, the Hearing Officer made a reasonable effort to develop the factual basis for the opinion or conclusion. When the testimony was not entirely clear or was ambiguous, the Hearing Officer questioned the witness(es) in a conscientious attempt to get specific, clear responses.**

Fair (3):

**The Hearing Officer asked some questions of witnesses, but did not make a reasonable effort to clear up all relevant opinions, conclusions, ambiguities or unclear testimony.**

Unsatisfactory (0):

**The Hearing Officer's questioning of witnesses disregarded statements which included conclusions, ambiguities or unclear testimony that was relevant, or dealt with them in an obviously inadequate manner.**

Did not occur (6):

**There were no statements which included conclusions or opinions and the testimony was clear and unambiguous and did not need clarification.**

\*\*\*\*\*

REFERENCE NOTES - CRITERION 9.

**The intent of this criterion is to ensure that the Hearing Officer fulfills his/her obligation to require lay witnesses to testify to evidentiary facts, as distinguished from conclusions. For example, if the witness says that the claimant was discharged for excessive absenteeism, this would be a statement, which included a conclusion. The Hearing Officer would be responsible for getting the witness's testimony reflecting the factual basis for this conclusion.**

**All lay witnesses expressing opinions should be subjected to thorough questioning to establish the facts used as a basis for the opinions whenever the statements are germane to the decision. Testimony by expert witnesses is admissible to meet the necessity of providing**

**to the Hearing Officer the aid of those especially qualified by education, background, experience, training and study to express an opinion on questions of facts relating to their particular skills. An example being a qualified employment service representative who testifies on labor market conditions.**

**However, it is important that the Hearing Officer establish, on the record, the expert witness's background and qualifications as an expert.**

**The difference between "Good" and "Fair" is that the latter score is applied when the Hearing Officer occasionally overlooks clearing up statements including ambiguities, conclusions, etc. about evidence that would not clearly affect the outcome of the case. An "Unsatisfactory" mark is given if the Hearing Officer accepted opinions or conclusions of the witnesses on crucial evidence without asking for the factual basis.**



10. Confrontation.

**CRITICAL FAIR HEARING &  
DUE PROCESS ELEMENT**

**There must be an opportunity for confrontation of all opposing witnesses.**

Good (9):

Each party had the opportunity to be present during the giving of all testimony affecting him/her and to confront all opposing witnesses (use of telephone hearings where all parties have the opportunity to participate and hear the witness(es) satisfies the confrontation requirement).

Fair (X):

Not applicable - Do not use.

Unsatisfactory (0): F

The Hearing Officer denied the opportunity for confrontation.

Did not occur (9):

There were no opposing witnesses.

**REFERENCE NOTES - CRITERION 10.**

The intent of this criterion is to ensure fulfillment of the due process right to an opportunity to know all of the evidence presented by opposing parties.

Excluding witnesses does not conflict with the requirements of this criterion unless the witness happens to be an "interested party" (claimant or employer).

11. Cross-examination.

CRITICAL FAIR HEARING &  
DUE PROCESS ELEMENT

The Hearing Officer must afford a timely (before testimony from another witness) opportunity to cross-examine, properly control cross-examination, and provide appropriate assistance where necessary.

Good (9):

The Hearing Officer provided the parties their right to an opportunity to timely cross-examination of the opposing witnesses, limited it to permissible bounds, and provided assistance in framing questions as necessary. When the parties made statements instead of asking questions, the Hearing Officer assisted the party in forming the statement into a question unless it was very clear that the party had no questions but wanted to testify.

Fair (3):

The Hearing Officer informed the parties of their right to cross-examination, but either did not control it or did not provide assistance that was needed in framing questions or s/he stated in one sentence, "Do you want to ask questions or make a statement?" The Hearing Officer cut people off who were clearly making a statement without helping them form the statement into a question, provided it is clear the party wanted or needed to get additional information from the witness. The hearing officer afforded the parties the opportunity for cross-examination, but not in a timely manner.

Unsatisfactory (0): F

The Hearing Officer failed to afford the parties their right to cross-examination or it is obvious the party did not know how to form questions and gave up out of frustration.

Did not occur (9):

There were no opposing witnesses.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 11.

The intent of this criterion is to ensure that all parties are afforded the right to cross-examine opposing witnesses.

**Cross-examination is a fundamental right, and not a mere privilege. It is not diminished by reason of the fact that the parties are unrepresented by counsel. If unrepresented parties appear to be unable to comprehend the term "cross-examination", it is necessary to provide them with their "cross-examination" right, expressed in lay language, such as, "Do you want to ask Mr. Jones any questions about any of the testimony he just gave?" If an unrepresented party is incapable of cross-examining properly (for example, instead of asking questions, s/he makes statements and seems unable to change), the Hearing Officer must assist by framing questions for the party.**

**The right to cross-examine should be offered immediately after the witness testifies, and it should not be delayed until all the witnesses for one side have concluded their direct testimony.**

**However, the right to cross-examination may be restricted, as for example, when it becomes unduly repetitious. Moreover, the cross-examiner should not be permitted to unduly harass, argue with or badger the witness.**

**The distinction between "Good" and "Fair" is that the latter score is given if the behavior of the cross-examiner approaches "badgering" the witness without admonishment by the Hearing Officer, or if the cross-examination is allowed to continue excessively, or if the Hearing Officer fails to provide meaningful assistance to lay persons. A "Fair" score should be given if the Hearing Officer initially offers the opportunity for cross-examination, but fails to offer it each and every time if there are repeated occurrences of redirect and recross-examination. A "Fair" score should be given if an opportunity was offered but not at the proper time.**

**An "Unsatisfactory" score is given if the Hearing Officer fails to provide cross-examination rights, or fails to keep the questioner from badgering the witness, or lets a lay person flounder without giving assistance that is clearly needed.**

12. Repetitive testimony and/or irrelevant testimony.

**The Hearing Officer should control the undue extension or repetition of testimony so as to keep the hearing moving expeditiously.**

Good (3):

The Hearing Officer diplomatically informed the witnesses that repetitious and prolonged testimony was not necessary and added nothing to the hearing. The Hearing Officer did not question witnesses excessively or permit undue repetition or extension of testimony by witnesses or duplication of witnesses, and testimony was limited to the issues.

Fair (1):

The Hearing Officer indulged in or allowed testimony that was repetitious, prolonged or irrelevant, but it did not burden the record and did not affect the final decision. The "Fair" score may be given on those occasions when it is clear that the Hearing Officer permitted a party to "ramble on" because that party would undoubtedly have perceived that s/he had been denied the opportunity to fully state his/her position.

Unsatisfactory (0):

The Hearing Officer permitted persistent repetition of testimony, prolonged testimony, or permitted irrelevant testimony; the Hearing Officer repeatedly asked repetitious questions of the witness.

Did Not Occur (X)

Not applicable - Do not use.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 12.

This criterion is intended to keep hearings moving along expeditiously. The Hearing Officer is bound not to belabor the witnesses with repetitious questions or remarks and to keep the witnesses from indulging in irrelevant, immaterial, and/or unduly repetitious testimony.

The score is based upon the extent that this type of testimony is permitted.

13. Leading questions.

**The Hearing Officer should not indulge in or permit improper leading questions on material issues on direct examination.**

Good (6):

The Hearing Officer did not ask improper leading questions about important facts, nor did the Hearing Officer allow the parties to do so.

Fair (3):

The Hearing Officer asked or allowed improper leading questions, but they did not inhibit the fair presentation of the evidence.

Unsatisfactory (0):

The Hearing Officer and/or the parties asked, without admonishment, improper leading questions which were material to the issues in the case.

Did Not Occur (X)

Not applicable - Do not use.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 13.

The intent of this criterion is to ensure that the Hearing Officer did not ask or permit the asking of improper leading questions. A leading question is one which suggests the answer. There are exceptions to this principle. On direct examination, parties or their representatives should not ask leading questions unless it relates to matters such as the party's or witness's name, social security number, address, etc. This is all background information and, in order to expedite the hearing, leading questions are permissible. The Hearing Officer may ask leading questions on direct examination if necessary to develop the evidence so long as the questions do not inhibit the fair presentation of the facts. On direct examination, if leading questions are asked by others, the Hearing Officer should curtail them and/or tell the questioner that answers to such questions will be entitled to less weight in the consideration of the evidence.

Another exception is that leading questions are permissible where the witness is hostile, biased, or unwilling to cooperate. In this situation, the Hearing Officer must decide if any one of these conditions exists and proceed accordingly.

Further, if it occurs that a witness cannot recall dates, names, places, times, etc., leading questions may be asked in order to jog his/her memory.

**14. Control of interruptions.**

**The Hearing Officer should, in as tactful a manner as possible, effectively respond to interruption of testimony and/or disruptive individuals at the hearing and refrain from inappropriate interruptions himself/herself.**

**Good (6):**

**The Hearing Officer, in as tactful a manner as possible, effectively handled interruptions at the hearing and/or disruptive individuals and did not interrupt unnecessarily.**

**Fair (3):**

**The Hearing Officer allowed some interruptions that did not disrupt the hearing.**

**Unsatisfactory (0):**

**The Hearing Officer's interruptions were inappropriate or s/he did not effectively control disruptions or interruptions by others.**

**Did not occur (6):**

**There were no interruptions or disruptive individuals.**

\*\*\*\*\*

**REFERENCE NOTES - CRITERION 14.**

**This criterion is intended to ensure that the Hearing Officer fulfills his/her obligation to prevent undue or improper interruptions in the testimony of the witnesses and/or control of disruptive individuals.**

**If possible, the Hearing Officer should have first made tactful attempts to prevent improper interruptions and to control disruptive individuals before resorting to more forceful means.**

**The scoring is based upon the degree or the extent that this is permitted to happen without correction by the Hearing Officer.**

15. "Off the record".

The Hearing Officer should effectively control going "off the record" and handle correctly "on the record" matters that occurred or were discussed "off the record".

Good (6):

The Hearing Officer went "off the record" or granted an application to do so for good and sufficient purposes. The Hearing Officer allowed no one else to go "off the record" but himself/herself. On resuming the record, the Hearing Officer summarized the essentials of what took place and obtained the concurrence of the parties. On turning over the tape or putting in a new tape, the Hearing Officer stated s/he was going "off the record" to change tape and when returning to the record, stated that the tape had been replaced and that nothing relating to the hearing had transpired in the process (concurrence is necessary). If the tape ran out unexpectedly creating a gap in the record, the Hearing Officer repeated or asked the last speaker to repeat the missing portion of the statement. In these instances, concurrence of the witness and parties is required.

Fair (3):

The Hearing Officer allowed parties to go "off the record" without establishing good and sufficient cause, but the Hearing Officer did summarize for the record the "off the record" discussion.

Unsatisfactory (0):

The Hearing Officer went "off the record" and failed to summarize and get concurrence from the parties "on the record" what happened "off the record"; or failed to repeat questions or testimony when the tape unexpectedly ran out or there was some other malfunction.

Did not occur (6):

The Hearing Officer did not go "off the record" for any reason.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 15.

The intent of this criterion is to build a record that is totally complete and without unexplained interruptions. Any interruption or break in the record must be covered by the

**Hearing Officer. The Hearing Officer may hear and grant a motion to go "off the record" from either of the parties.**

**A "Good" score is warranted when the Hearing Officer: (a) goes "off the record" or grants an application to do so only for good and sufficient reasons; (b) allows no one to go "off the record" without his/her permission except when beyond his control, such as with machine failure; and (c) summarizes the "off the record" discussion and events and obtains the concurrence of the parties to the summary upon resuming the record.**

**A "Fair" score should be given if the Hearing Officer allows parties to go "off the record" without establishing good and sufficient reason for doing so.**

**An "Unsatisfactory" score should be given if the Hearing Officer went "off the record" and failed to summarize on the record what happened while off the record or failed to get a concurrence of the parties if the record was summarized.**



16. Interpreters.

**The Hearing Officer should utilize interpreters correctly.**

**Good (6):**

When necessary, the Hearing Officer gave clear instructions to the interpreter as to how to interpret and administered a special interpreter's oath. When necessary, the Hearing Officer established "on the record" that the interpreter was fluent in both languages. The Hearing Officer must require that the interpretation be word for word to the extent possible as it was spoken in the foreign language.

**Fair (3):**

The Hearing Officer did not give clear instructions to the interpreter as necessary, but corrected the interpreter on errors committed.

**Unsatisfactory (0):**

The Hearing Officer (a) did not give an interpreter's oath, or (b) failed to take reasonable steps to ensure that the translation accurately reflected the testimony.

**Did not occur (6):**

An interpreter was not used.

**REFERENCE NOTES - CRITERION 16.**

The intent of this criterion is to ensure that the testimony is accurately interpreted. The interpretation should be word for word to the extent possible as it was spoken in the foreign language.

For example, if the interpreter says, "He said that . . . ," the interpreter is not translating word for word ; the interpreter should translate in the first person as the witness testifies.

A "Good" score is warranted if the Hearing Officer gave clear instructions to the interpreter as to how to interpret. A "Good" score should also be given for those hearings wherein a "qualified" interpreter was used and no instructions were necessary and in those States that give the instructions before going on the record. In addition to giving clear instructions when necessary, a special interpreter's oath is to be administered in order to receive a "Good" score.

**A "Fair" score should be given if the Hearing Officer administered the special interpreter's oath but failed to give instructions to the interpreter when necessary; however, the Hearing Officer did correct the interpreter on errors committed thereby ensuring an accurate translation.**

**An "Unsatisfactory" score should be given if the Hearing Officer failed to administer the special interpreter's oath or failed to take reasonable steps to ensure that the translation accurately reflected the testimony.**

17. Continuances.

After the hearing has begun the Hearing Officer should use good judgment as to continuances.

Good (3):

The Hearing Officer granted a necessary continuance when requested by either party or upon his/her own motion.

Fair (1):

The Hearing Officer granted a continuance where the need for such action was doubtful and not fully supported by the record.

Unsatisfactory (0):

The Hearing Officer granted a continuance for insufficient reasons or failed to order a continuance when necessary.

Did not occur (3):

A continuance was not requested or appropriate.

\*\*\*\*\*  
REFERENCE NOTES - CRITERION 17.

The intent of this criterion is to curtail unwarranted continuances that unreasonably delay the disposition of cases and to ensure that those necessary are granted. If new material matters develop in the course of a hearing, which a party is unprepared to meet and the element of surprise is present, it is necessary to order a continuance to afford an opportunity for preparation (unless the right to a further hearing is waived). If parties to a telephone hearing are not furnished copies of exhibits, a continuance may be necessary to allow opportunity to review and object to the documents. (See Criterion 3)

A "Good" score is warranted when the Hearing Officer granted a continuance only for good and sufficient reasons that were fully supported by the record.

A "Fair" score should be given if the Hearing Officer granted a continuance and the need for such action was doubtful.

**An "Unsatisfactory" score should be given when the Hearing Officer granted a continuance for reasons that were insufficient and not supported by the record; or the Hearing Officer did not order a continuance when one was needed.**

18. Closing the hearing.

**The Hearing Officer should properly conclude the hearing by ascertaining whether the parties have anything to add.**

Good (6):

The Hearing Officer asked the parties prior to the end of the hearing if they had anything further to say.

Fair (3):

The Hearing Officer made a statement that the hearing was closed unless the parties stated that they had something further to say.

Unsatisfactory (0):

The Hearing Officer failed to ask this question at the conclusion of the hearing.

Did Not Occur (X)

Not applicable - Do not use.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 18.

The intent of this criterion is to ensure that the parties have a full and ample opportunity to present all of the information pertinent to their case.

This criterion is especially important in those cases where the parties are not represented by counsel. Affording the parties an opportunity to state anything additional at the conclusion of the hearing aids all subsequent reviewers of a case in their consideration of allegations contending that a party to a case was not allowed to state everything they wanted to present. Any wording which the Hearing Officer chooses to use to accomplish this result is permissible. The criterion will not be scored down for curtailing repetitive or irrelevant statements.

The difference between the "Good" rating and the "Fair" rating is often based on the type of wording used. A "Fair" score should be given when, the Hearing Officer appears to be adopting a negative approach, which may possibly defeat the purpose and intent of the criterion by inviting a "no" response. A "GOOD" score should be given in those cases

**where the Hearing Officer concludes the hearing somewhat abruptly after multiple attempts to conclude it properly and one or both of the parties persists in offering repetitive or irrelevant testimony.**

**An "Unsatisfactory" score should be given when the Hearing Officer ends the hearing abruptly without affording the parties an opportunity to make additional statements.**

19. Hearing within scope of notice.

**CRITICAL FAIR HEARING &  
DUE PROCESS ELEMENT**

**The Hearing Officer must conduct the hearing within the scope of the issues raised by the notice of hearing, and within the issues as finally developed at the hearing, giving proper notice of new issues.**

Good (9):

**The Hearing Officer conducted the hearing within the scope of the issues specifically raised by the notice of hearing and explained other issues that arose, as well as the right to a continuance to meet any new issues. If the Hearing Officer took up new issues, a knowledgeable waiver of notice was obtained before going to the merits. No deduction will be made for inquiry intended to assist in issue identification, in determining relevance, for impeachment or for credibility assessment.**

Fair (X):

**Not applicable - Do not use.**

Unsatisfactory (0): F

**The Hearing Officer did not conduct the hearing within the scope of the issues raised. The Hearing Officer did not identify new issues which arose and which were explored or, having identified and explored such issues, failed to explain the right to a continuance to meet them, or the necessity to waive notice in order to proceed with the new issue(s).**

Did Not Occur (X)

**Not applicable - Do not use.**

\*\*\*\*\*

**REFERENCE NOTES - CRITERION 19.**

**The intent of this criterion is to limit the hearing to the issue or issues set forth in the hearing notice or to obtain an informed waiver of notice before considering a new issue. The criterion will not be scored down if a party testifies or tries to testify about an issue not before the Hearing Officer. This is not a control of hearing criterion. If a new issue arises during the hearing, the Hearing Officer must inform the parties that there is a new issue which could affect entitlement to benefits and that it needs to be covered (State law will determine whether the Hearing Officer has jurisdiction or must remand). The parties must be advised of how resolving the issue would affect them, that they can proceed with the case or request a continuance to prepare for hearing on the new issue. If they elect to proceed, with no continuance, then their election to waive notice must be on the record.**





20. Gratuitous Comments.

**The Hearing Officer should not interfere with the development of the case by making gratuitous comments or observations.**

Good (6):

The Hearing Officer made no uncalled for remarks.

Fair (3):

The Hearing Officer made one or two observations, not helpful or immediately pertinent to the issues, but not to the point of being objectionable.

Unsatisfactory (0):

The Hearing Officer made unnecessary comments or observations that diminished the quality of the hearing.

Did Not Occur (X)

Not applicable - Do not use.

\*\*\*\*\*

**REFERENCE NOTES - CRITERION 20**

This criterion is intended to ensure that the Hearing Officer conducts a hearing that is both fair in appearance and in substance. It is intended to prevent the Hearing Officer from making uncalled for comments in an attempt to be "smart" or "funny", or remarks that do not meet high standards of demeanor and decorum.

Scoring should be based upon the degree and extent of compliance or noncompliance with this criterion. Do not "score down" for remarks which appear to have been intended to make the parties at ease.

21. Attitude.

**The Hearing Officer should display an attitude that allows the parties and representatives to speak freely in an orderly manner about the issues in the case.**

Good (6):

The parties were made to feel at ease in offering testimony and in developing their case.

Fair (3):

The Hearing Officer did not consistently make all parties feel at ease, but not to the extent that it affected the outcome.

Unsatisfactory (0):

The Hearing Officer's attitude was antagonistic or indifferent.

Did Not Occur (X)

Not applicable - Do not use.

\*\*\*\*\*  
**REFERENCE NOTES - CRITERION 21**

The intent of this question is to ensure that the Hearing Officer makes the necessary effort to put the parties and witnesses as "at ease" as possible. It is important that the parties believe that the hearing was fair as well as for a fair hearing to be provided. The Hearing Officer must strive to leave the parties with the impression that a fair decision will be provided.

The principal difference between a "Good" and a "Fair" score is the consistency and care the Hearing Officer exhibits in trying to make the parties feel at ease and in trying to provide necessary assistance. If the hearing officer's attitude is consistently antagonistic or indifferent, the criterion should be scored "Unsatisfactory".

22. Bias and prejudice.

CRITICAL FAIR HEARING &  
DUE PROCESS ELEMENT

**The Hearing Officer must conduct the hearing in an impartial manner.**

Good (9):

The Hearing Officer did not appear to demonstrate bias or prejudice toward any participant in the hearing. The intensity of questioning, type of questions asked, or the treatment of the participants, did not indicate bias or prejudice.

Fair (X):

Not applicable - Do not use.

Unsatisfactory (0): F

The Hearing Officer appeared to demonstrate bias or prejudice toward a participant, or the Hearing Officer's actions were reasonably perceived as doing so.

Did Not Occur (X)

Not applicable - Do not use.

\*\*\*\*\*  
REFERENCE NOTES - CRITERION 22.

The intent of this criterion is to ensure that the Hearing Officer conducted the hearing in a fair and impartial manner. When it appears that the Hearing Officer treated a participant in a negative or demeaning manner because of the participant's career field, status, beliefs, appearance, age, sex, religious beliefs, or other protected civil rights, the criterion shall be scored unsatisfactory.

The Hearing Officer must control the hearing and ask hard questions and be persistent in clarifying or determining the truth of a statement. At times one party may require more assistance than the other. Maintaining control and asking questions does not excuse tyrannizing the party or witness. By the same token, offering assistance in a way that clearly is demeaning and disparaging would result in an unsatisfactory score.

23. Obtain reasonably available evidence.

**CRITICAL FAIR HEARING &  
DUE PROCESS ELEMENT**

**The Hearing Officer must attempt to obtain the reasonably available, competent evidence necessary to resolve the issues in the case.**

Good (9):

The Hearing Officer obtained competent evidence, reasonably available and necessary to resolve the issues in the case.

Fair (3):

The Hearing Officer obtained most of the evidence necessary to resolve the issues of the case and the omissions were not prejudicial to the outcome of the case.

Unsatisfactory (0): F

The Hearing Officer did not make a sufficient record to render a decision, because s/he did not obtain sufficient, competent, available evidence to resolve the issues in the case.

Did Not Occur (X)

Not applicable - Do not use.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 23.

The intent of this criterion is to ensure that the Hearing Officer functions as a fact-finder.

It is the responsibility of the Hearing Officer to develop all the evidence that is reasonably available and to make a decision according to the dictates of the State law. "Reasonably available" means that evidence or testimony which is available at hearing and which is critical to the issues to be decided.

In applying this criterion, consideration must be given to the adequacy of the Hearing Officer's development of the evidence on each issue: Was it sufficient to secure evidence that was necessary and reasonably available?

CRITERIA FOR DECISIONS

24. Issues clearly stated.

**The statutory issues involved should be clearly and simply stated in the decision.**

Good (3)

A full statement was made, in simple language, of all statutory issues in the case.

Fair (X)

Not applicable - Do not use.

Unsatisfactory (0):

The decision either omitted some or all of the issues, or stated them in an involved way, or in a manner making them incomprehensible.

Did not occur (X)

Not applicable - Do not use.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 24

The intent of the criterion is to ensure that there is a clear understanding of what issue(s) the decision addresses. It should communicate clearly and effectively to the interested parties and other readers exactly what the issue is. It should also establish the boundaries of the decision, beyond which the hearing officer should not go without explanation and valid reason.

At the beginning of the decision, early in the description of the case history, or at another appropriate spot, the issue or issues to be decided should be stated in simple terms for clear understanding and should include all the elements of the applicable statutory provision(s). This statement need not be in the precise language of the statute. For example, the decision may read, "The issue in this case is whether the claimant voluntarily left his employment without good cause."

25. Findings supported by substantial evidence.      **CRITICAL FAIR HEARING &  
DUE PROCESS ELEMENT**

**Accepting the Hearing Officer's judgment of credibility, unless it is manifestly without basis, the findings of fact must be supported by substantial evidence in the hearing record.**

**Good (9):**

The findings of fact which were made were supported by substantial evidence.

**Fair (X):**

Not applicable - Do not use.

**Unsatisfactory (0): F**

The findings of fact which were made were not supported by substantial evidence.

**Did not occur (X)**

Not applicable - Do not use.

\*\*\*\*\*  
**REFERENCE NOTES - CRITERION 25.**

The intent of this criterion is to ensure that the findings of fact are supported by evidence in the record and this evidence is of sufficient quality (substantial evidence) and quantity (more than a mere scintilla) to support the findings.

In scoring this criterion, the evaluator does not decide whether all the necessary findings of fact were made, but whether the findings of fact made by the Hearing Officer are supported by substantial evidence in the hearing record. See Criterion 26 for findings of fact.

Only evidence that is properly entered into the record and that which is officially/administratively noticed can be considered as a basis for the findings of fact.

The weight the Hearing Officer gives to the evidence, and, in the case of contradictory evidence or testimony, the Hearing Officer's judgment of credibility should be accepted unless it is entirely without basis or is clearly unreasonable.

There is no "Fair" score. Either the findings of fact which were made are supported by the evidence, or they are not. The distinction between "Good" and "Unsatisfactory" is whether or not the findings of fact are supported by substantial evidence. Substantial

**evidence has been defined as "such evidence, or such relevant or competent evidence, as a reasonable mind might accept as adequate to support a conclusion".**

26. Findings of fact.

CRITICAL FAIR HEARING &  
DUE PROCESS ELEMENT

The Hearing Officer must make all of the findings of fact necessary to resolve the issues and support the conclusions of law included in the decision.

Good (9):

The decision contained all the necessary findings of fact. The form in which the findings were stated leaves no doubt that they were facts found by the Hearing Officer. The decision does not merely recite testimony as findings of fact.

Fair (3):

The decision contained all the necessary findings of fact. However, there was excessive recitation of testimony, or irrelevant findings, or the findings were not clearly and logically stated.

Unsatisfactory (0): F

The decision did not contain the necessary findings of fact.

Did not occur (X)

Not applicable - Do not use.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 26.

Findings of fact are sometimes referred to as evidentiary findings or primary facts. The intent of this criterion is to ensure that the findings of fact are complete and also expressed in the decision as such. They should cover all facts at issue and provide the necessary support for the legal conclusions of the Hearing Officer. They should be worded to show clearly that they are the findings of the Hearing Officer.

Findings of fact are the basis for the conclusions of law which are required by the applicable statute(s), and which are reached by a process of reasoning from the findings of fact. For example, if "quit" is the issue, the decision should contain findings of fact about whether the claimant left or was discharged; the circumstances (to determine if the leaving was voluntary or involuntary); and the reason(s) for leaving (to determine the question of



good cause). The conclusions that the claimant left his work, did so voluntarily and without good cause are the conclusions of law.

From a study of all the evidence, the Hearing Officer must find the facts about what happened. This story of what happened should be told in logical (usually chronological) order and in unequivocal terms. There should be no doubt in the reader's mind about what the Hearing Officer's findings of fact are.

The findings of fact must be made on all the elements of the issue being decided. The findings must be characterized as findings. Generally evidence should not be summarized and the testimony should not be recited, except when testimony may be a finding of fact.

The Hearing Officer's findings of fact must be relevant, accurate, and complete since they are final (in most States) if supported by sufficient, competent evidence in the record. Under the circumstances, the review court must rely upon the decision for these findings. Therefore, they must be clearly stated in the decision as findings of the Hearing Officer (as distinguished from a summary of evidence).

A "Good" score is warranted if the decision contains all necessary findings of fact and does not inappropriately recite testimony. A "Fair" score is warranted if the decision inappropriately recites some testimony in a way that could cause some uncertainty about what were the Hearing Officer's findings of fact. An "Unsatisfactory" score should be given if the decision fails to make all the necessary findings of fact needed to resolve the issues.

27. Required conclusions.

The decision should contain the conclusions of law required to resolve the issue(s) in the case.

Good (6):

The decision did contain the necessary conclusions.

Fair (X):

Not applicable - Do not use.

Unsatisfactory (0):

The decision did not contain the necessary conclusions.

Did not occur (X)

Not applicable - Do not use.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 27.

The intent of this criterion is to ensure that the Hearing Officer has indicated his/her final conclusion on each and all issues involved.

The conclusions of law (ultimate findings) refer to the final legal result of the case which grants or denies or modifies the relief requested by the appeal. Following the language of the statute, it tells the parties what will happen. The conclusion should be stated in clear, understandable terms, which are, nonetheless indicative of a firm, unwavering decision.

For example, in a simple absence misconduct issue, the specific provision in the law should be referred to by quoting it or by explaining it in simple terms with, when necessary, an explanation of a term such as "misconduct." The conclusion of law might be, "The claimant is disqualified since absence without notice constitutes misconduct connected with the work." This statement resolves the issue and should be supported by the Hearing Officer's findings that the claimant had been absent and had not given notice to his employer, with further appropriate details. The opinion would then continue with the rationale for the conclusion.

28. Logical reasoning.

**The decision should state reasons and rationale that were logical.**

Good (6):

The reasons and rationale in the decision logically followed from the findings of fact to the conclusions of law. Extensive rationale, not relevant to the specific case, was not used. Deduction will not be made for addressing specific legal or factual contentions raised by the parties and not given credence or weight.

Fair (3):

The reasoning was either not fully stated or was excessive, but understandable.

Unsatisfactory (0):

The reasoning and rationale used either were not stated or did not logically follow from the findings of fact to the conclusions of law.

Did not occur (X)

Not applicable - Do not use.

\*\*\*\*\*  
**REFERENCE NOTES - CRITERION 28.**

The intent of this criterion is to ensure that the explanation of the decision is reasonably drawn from the findings of fact, is understandable, and adequately covers only the factors in the provision of the law relating to the issue.

The reasoning serves to bridge the gap between the findings of fact and the conclusions of law. It should explain why the facts led to the conclusions. The facts should not be repeated as reasoning, nor should new facts be entered. The reasoning should use concise, understandable terms without unnecessary elaboration, and without including reasoning for immaterial considerations. Even if the facts seem to show obviously, what the reasoning will be, the reasoning must be stated. This is the place to explain why contentions were either accepted or rejected.

A "Fair" score requires that most of the reasoning be understandable, even though the language used may be redundant, and/or the reasoning is slightly incomplete.

**"Unsatisfactory" is given if there is no attempt to provide reasons, or illogical reasons are used not connected or associated with the facts. For example, "It is the opinion of the Hearing Officer that the claimant is unavailable."**

29. Form, style and organization.

**The decision should be well organized as to form and style.**

(This criterion does not address content).

Good (3):

The decision was organized so that the issues in the case, the findings of fact, the rationale, the conclusions of law and the ruling were clearly set forth.

Fair (1):

Although the various portions of the decision merged with one another, it was clear which statements were findings of fact and which were conclusions of law.

Unsatisfactory (0):

The decision was not organized and it was difficult to understand.

Did not occur (X)

Not applicable - Do not use.

\*\*\*\*\*

**REFERENCE NOTES - CRITERION 29.**

The intent of this criterion is to ensure that each segment of the decision is stated distinctly for the purposes of clarity, correct administrative adjudication procedures, and compliance with legal requirements. This criterion refers to the outline or form of the decision and not to its content, which is covered in other criteria. The decision also serves as a source of information both within the agency and for the public.

The written decision is of the utmost importance. It is the culmination of the hearing process, and must be adequate for judicial review. The decision should include the following elements: a statement of the issue(s) being decided; the findings of fact; the rationale or reasoning -- based on the findings of fact and the applicable statute; the conclusions of law -- based upon the findings of fact and reasons, and showing the final judgment of the hearing officer on the issue(s); and the "decision" -- the action to be taken by the agency in accord with the decision.

While there is no absolutely correct order for the above listed elements and some acceptable formats may merge some of them, each element should be clearly identifiable.

**30. Decision states legal effect.**

**The "decision" portion should contain a clear and correct statement of the legal effect of each issue covered.**

**Good (3):**

**Each issue in the proceeding was covered, treated as affirmed, reversed, or modified, and when there was a modification, the modification was stated. The Hearing Officer clearly stated the administrative action to be taken.**

**Fair (1):**

**Each issue in the proceeding was covered, treated as affirmed, reversed, or modified and, when there was a modification, the modification was stated. However, the decision did not clearly state the administrative action to be taken.**

**Unsatisfactory (0):**

**The decision did not adequately cover the disposition of the issues. The decision merely stated that the determination was affirmed, reversed, or modified.**

**Did not occur (X)**

**Not applicable - Do not use.**

\*\*\*\*\*

**REFERENCE NOTES - CRITERION 30.**

**The intent of this criterion is to ensure a decision style and format that informs the reader in a clear and effective manner of the Hearing Officer's ruling on all the issues involved in the appeal.**

**A "Good" score is warranted if the decision shows the Hearing Officer's ruling on all the issues involved, i.e., "affirmed," "reversed," or "modified" (as appropriate). If modified, it must clearly and specifically show the modification. Additionally, the decision, taken as a whole, should show the administrative action to be taken. For example, "Benefits are denied from the week of (date) and the 7 weeks immediately following ending on (date)". (Or any wording chosen by the Hearing Officer that would clearly show the administrative action which should occur.)**

**A "Fair" rating should be given if the decision meets all of the requirements for "good" except that it fails to show clearly the administrative action to be taken if any.**

**A decision is "Unsatisfactory" if it fails to show the disposition of issues involved in the appeal. Or it only states that the appealed determination is affirmed, reversed, or modified.**

31. Understandable decision.

The decision should be worded so that it is understandable to most claimants and employers and it should have a professional appearance.

Good (6):

The sentences were grammatically correct, concise and easily understood. The Hearing Officer used only words in common usage. Legal and technical verbiage was avoided. The Hearing Officer avoided objectionable or abrasive words or phrases. The decision was neat and professional in appearance and contained a minimal number of typographical or other errors.

Fair (3):

The Hearing Officer occasionally used an unfamiliar word. A sentence was not entirely clear. But, on the whole, the decision was reasonably understandable and typographical or other errors did not substantially detract from the presentability of the decision.

Unsatisfactory (0):

At key points, the decision contained many words not easily understood by the average reader. Sentences were long and involved. The decision left the reader without a clear understanding of its meaning. The decision contained numerous typing, spelling or other editing errors.

Did not occur (X)

Not applicable - Do not use.

\*\*\*\*\*

REFERENCE NOTES - CRITERION 31.

A written decision should communicate clearly and this criterion is addressed to that objective. It must be clear and concise and worded to the level of understanding of most people. It should be written clearly and tactfully and should appear neat and professional.

A "Good" is scored if the wording in the decision is grammatically correct, clear and simple, without unnecessary legal or technical wordage and without inflammatory language and there were a minimal number of typographical or other errors.



**A "Fair" score should be given if the decision meets the qualifications above except that it contains an occasional word that may be difficult for readers to understand and/or contains some errors which do not confuse the reader as to the result of the decision.**

**An "Unsatisfactory" score is given if the decision is not easily understandable to most people or contains numerous typographical or other errors which significantly detract from the quality of the decision. For example, the sentences may be too long, involved, and unclear, or may contain technical or legal words or acronyms at critical points. If after reading the decision, the reader does not know who prevailed and why, the decision is "Unsatisfactory"**

## ANNUAL REVIEW CRITERIA

**The following two criteria need not be scored by State evaluators during the regular quarterly self-evaluation process. These criteria will be scored as part of the annual review of the State's quarterly self-evaluations. Each case submitted to UIS for review should include the notice of hearing and copies of the materials used to inform the parties of their further appeal rights.**

ANNUAL REVIEW CRITERIA

**ANNUAL REVIEW 1. Notice of Hearing:**

**The notice of hearing should clearly identify the parties, the date, time and place of hearing and the issues to be addressed or was there an informed waiver.**

**Good (6):**

The hearing notice clearly lists all parties to whom the hearing notice was mailed. It need not list the agency as a party. The date and time are clear and the place of hearing is adequately described. In case of a telephone hearing, the method of appearance is clearly explained, e.g., "Parties should call the toll free number above at least 15 minutes before the hearing to notify the Hearing Officer of the number to be called for hearing." No deduction will be made if the place of hearing is listed as "Employment Security Office, 1100 W 10, Jasper, MA." A room number or reference to hearings room is not necessary.

The issues must be sufficiently clear so as to allow the parties to adequately prepare for hearing, e.g., "Should claimant be disqualified from benefits because of his separation from work."

**Fair (3):**

The notice either does not clearly identify all of the parties notified or does not clearly state the issue, e.g., "Should the September 25, 19\_ examiner's decision be affirmed?"

**Unsatisfactory (0):**

The notice of hearing neither identifies the parties nor states the issue so that the parties can understand it.

**Did not occur (X)**

Not applicable - do not use.

\*\*\*\*\*

**REFERENCE NOTES - CRITERION N.O. 1.**

The intent of this criterion is to ensure that the parties have adequate notice of the hearing and opportunity to prepare for the hearing. The notice should indicate all the parties who have been given notice of the hearing, and in case, of a telephone hearing information should be given on how to participate.

**A "Good" is given if the hearing notice covers all of the required information and does so in a way that can be understood by the parties.**

**A "Fair" rating is given if the notice gives the general date, time and place information but does either not list what parties have been given notice or does not clearly state the issue. Reference back to the decision appealed is not sufficient to meet the notice requirement.**

**This criterion will not be scored down in those situations where notice was given and there was subsequent waiver of notice and the hearing was held on issues other than those set forth on the notice. The same is true where, in emergency situations, a hearing may be held without written notice.**

**ANNUAL REVIEW 2.      Finality date and further appeal rights.**

**The decision should clearly and understandably state the date that the decision would become final and the rights of further review or appeal.**

**Good (3):**

**The decision clearly states when the decision is final and that the party adversely affected may appeal. "This decision becomes final 20 days from the date of mailing" is sufficient if the date of mailing is clearly identified. "See the attached brochure for further appeal rights" is adequate to advise the parties that further appeal rights are available.**

**Fair (X):**

**Not applicable - Do not use.**

**Unsatisfactory (0):**

**The decision does not clearly set out when the decision becomes final or does not indicate that further appeal rights are available.**

**Did not occur (X)**

**Not applicable - do not use.**

\*\*\*\*\*

**REFERENCE NOTES - CRITERION N.O. 2.**

**The intent of this criterion is to ensure that the parties understand when the decision becomes final and that the adversely affected party may appeal.**

**ETA 9057, LOWER AUTHORITY APPEALS QUALITY REVIEW  
STATE EVALUATION SCORE SHEET**

<b>CASE ID#</b>	<b>Docket #</b>	<b>Hearing Officer</b>				<b>Evaluator</b>
<b>1. EXPLANATION</b>		G-6	F-3	U-0	D-6	<b>G = GOOD; F = FAIR; U = UNSAT; D = DID NOT OCCUR</b>  <u>COMMENTS</u>
<b>2. OPENING STATEMENT</b>		G-6	F-3	U-0	D-6	
<b>3. EXHIBITS</b>		G-6	F-3	U-0	D-6	
<b>4. WITNESS ORDER</b>		G-6	F-3	U-0	D-6	
<b>5. ORDER OF WITNESSES' TESTIMONY</b>		G-3	F-1	U-0	D-6	
<b>6. QUESTION OWN WITNESS</b>		G-9	F-3	U-0	D-9	
<b>7. CLEAR LANGUAGE BY H.O.</b>		G-6	F-3	U-0	D-6	
<b>8. COMPOUND QUESTIONS</b>		G-6	F-3	U-0	D-6	
<b>9. CLARIFIED TESTIMONY</b>		G-6	F-3	U-0	D-6	
<b>10. CONFRONTATION</b>		G-9	F-3	U-0	D-9	
<b>11. CROSS-EXAMINATION</b>		G-9	F-3	U-0	D-9	
<b>12. REPETITIVE TESTIMONY</b>		G-3	F-1	U-0	D-6	
<b>13. LEADING QUESTIONS</b>		G-6	F-3	U-0	D-6	
<b>14. INTERRUPTIONS</b>		G-6	F-3	U-0	D-6	
<b>15. "OFF THE RECORD"</b>		G-6	F-3	U-0	D-6	
<b>16. INTERPRETERS</b>		G-6	F-3	U-0	D-6	
<b>17. CONTINUANCES</b>		G-3	F-1	U-0	D-3	
<b>18. CONCLUSION OF HEARING</b>		G-6	F-3	U-0	D-6	
<b>19. WITHIN SCOPE OF NOTICE</b>		G-9	F-3	U-0	D-9	
<b>20. GRATUITOUS COMMENTS</b>		G-6	F-3	U-0	D-6	
<b>21. ATTITUDE</b>		G-6	F-3	U-0	D-6	
<b>22. BIAS AND PREJUDICE</b>		G-9	F-3	U-0	D-9	
<b>23. OBTAIN AVAILABLE EVIDENCE</b>		G-9	F-3	U-0	D-9	
<b>24. ISSUE STATEMENT</b>		G-3	F-1	U-0	D-6	
<b>25. FINDINGS SUPPORTED BY EVIDENCE</b>		G-9	F-3	U-0	D-9	
<b>26. FINDINGS OF FACT</b>		G-9	F-3	U-0	D-9	
<b>27. NECESSARY CONCLUSIONS INCLUDED</b>		G-6	F-3	U-0	D-6	
<b>28. LOGICAL REASONING</b>		G-6	F-3	U-0	D-6	
<b>29. FORM AND STYLE</b>		G-3	F-1	U-0	D-6	
<b>30. DECISION STATES LEGAL EFFECT</b>		G-3	F-1	U-0	D-6	
<b>31. UNDERSTANDABLE DECISION</b>		G-6	F-3	U-0	D-6	
<b>32. TOTAL POINTS SCORED (OPTIONAL)</b>						
<b>33. INTENT OF DECISION</b>	A - ALLOW; D - DENY					
<b>34. EFFECT ON APPEALED DETER.</b>	A - AFFIRM; R - REVERSE; M - MODIFY					
<b>35. DATE OF DECISION (MMDDYYYY)</b>						
<b>36. DATE IMPLEMENTED (MMDDYYYY)</b>						
<b>37. CASE MAT. STATUS: OK; TI(TAPE INAUD.); TM(TAPE MISS.); DM(DOCS. MISS.)</b>						
<b>38. TIME REQUIRED FOR EVALUATION OF CASE IN MINUTES.</b>						

SEE HANDBOOK NO. 382, 2ND EDITION FOR CALCULATING PERCENTAGE SCORE.