



## Terms Used in Unemployment Insurance Hearings and Appeals

**Adjournment:** The hearing cannot finish in the time allowed and is rescheduled for another day.

**Administrative Law Judge:** The person who conducts an Unemployment Insurance hearing. The judge decides whether to sustain, overrule, or modify an initial determination of benefits.

**Affirmed:** A conclusion by the Unemployment Insurance Appeal Board that the decision of the Hearing Administrative Law Judge is correct.

**Appeal:** The legal process used by a party who disagrees with the decision of an Administrative Law Judge. The Unemployment Insurance Appeal Board is asked to review one or more issues. The appeal decision is signed by one or more members of the Unemployment Insurance Appeal Board.

**Appellate Division:** A part of New York State's court system. Parties who receive unfavorable decisions from the Unemployment Insurance Appeal Board may appeal to the Appellate Division. There are four Appellate Divisions in New York. They cover different geographical areas (referred to as "Departments"). All appeals from decisions of the Unemployment Insurance Appeal Board go to the Third Department.

**Appearance:** A party takes part in the hearing. Parties may testify, question opposing witnesses, review documents that are entered into evidence, and make closing statements.

**Application to Reopen:** A party requests a new hearing or asks to reopen an Unemployment Insurance Appeal Board decision.

**Arbitration:** A type of hearing to decide a dispute between two parties. The decision is made by an independent hearing officer known as an arbitrator. An arbitration decision will often be considered in reaching the Administrative Law Judge or Board decision.

**Claim:** The process used by an unemployed person to request Unemployment Insurance benefits. A claim may be filed by telephone or by using the Department of Labor's website.

**Claimant:** A person who has lost a job and applies for Unemployment Insurance benefits.

**Closing Statement:** An explanation given at the end of the hearing by each party. It states the reasons why that party should receive a favorable decision.

**Collateral Estoppel:** The effect given to the findings of fact made by an arbitrator. In some situations, an Administrative Law Judge cannot make findings of fact that do not agree with an arbitrator's findings of fact.

**Commissioner of Labor:** The person in charge of the Department of Labor. This person is responsible for making sure that all sections of the Labor Law, including the Unemployment Insurance law, are carried out properly. The Commissioner is appointed by the Governor of New York State.

**Commissioner of Labor Representative:** An employee of the Department of Labor who may appear at a hearing on behalf of the Commissioner of Labor. The representative may present evidence, cross-examine witnesses, and make a closing statement to explain why the initial determination issued by the Department of Labor should be sustained.

**Cross-Examination:** When one party asks questions of another party or the other party's witnesses. For example, the claimant may question any witness appearing on behalf of the employer or the Commissioner of Labor. The employer may question the claimant and any witness appearing on behalf of the claimant or the Commissioner of Labor. A Commissioner of Labor Representative may question all parties and their witnesses.

**Default:** When the party who requested the hearing fails to appear. It may also mean the failure of a party to proceed at a hearing because the party does not have an attorney or representative, or a witness or document, that the party feels is necessary to win the case.

**Decision:** The legal document signed and issued by the Administrative Law Judge after a hearing, or by one or more Unemployment Insurance Appeal Board members after an appeal. The decision will state whether the initial determination by the Department of Labor should be sustained, overruled, or modified. The decision contains a procedural history, findings of fact, and an analysis of the facts and the law.

**Direct Testimony:** Statements given at a hearing in response to questioning of each party or party witness by the Administrative Law Judge or a party's representative.

**Due Process:** The procedures that guarantee that all parties have a fair hearing. The Fifth and Fourteenth Amendments to the Constitution of the United States guarantee that legal proceedings take place using rules that protect the rights of the parties.

**Evidence:** Testimony or exhibits presented in a hearing. Evidence that the Administrative Law Judge believes to be factual is used to decide the case in favor of one side or the other.

**Exhibits:** Evidence in the form of documents, media, or other physical objects.

**Employer:** A corporation, a partnership of two or more people, a small business, a single proprietor, or a business owner for whom a claimant worked.

**Hearing:** The proceeding at which evidence is presented to the Administrative Law Judge. The parties who appear are questioned by the judge, their own representatives, and by the opposing party. They may also question the witnesses brought by the opposing party. The judge will reach a decision based on evidence. The judge will decide whether the initial determination by the Department of Labor should be sustained, overruled, or modified.

**Hearsay:** Evidence that someone read or was told about an incident but did not actually see or hear it.

**Initial Determination:** The document issued by the Department of Labor that concerns a specific legal issue and decides whether a claimant is or is not eligible for Unemployment Insurance benefits.

**Labor Services Representative:** An employee who decides on behalf of the Department of Labor whether a claimant will be allowed or denied Unemployment Insurance benefits. The Labor Services Representative may testify at a hearing about telephone interviews and email exchanges with the claimant or the employer.

**Modified:** A decision by an Administrative Law Judge that the initial determination should be sustained in part and overruled in part. It may also be a decision by the Unemployment Insurance Appeal Board that the Administrative Law Judge's decision is partially correct and should be affirmed in part and reversed in part.

**Overruled:** A decision by an Administrative Law Judge that the initial determination was incorrect and should not remain in effect.

**Party:** A person or business that will be affected by the hearing results. The three parties that may participate in an Unemployment Insurance hearing are the claimant, the employer, and the Commissioner of Labor.

**Remand:** A decision made by an Unemployment Insurance Appeal Board member to send the case back to the Hearing Administrative Law Judge for another hearing.

**Representative:** The person at the hearing who speaks to the Administrative Law Judge and questions witnesses on behalf of a party. Claimants may be represented by an attorney, although that is not a requirement. The employer may be represented by an attorney or by a company that represents employers in government matters. Or, the employer may be represented by one of its own employees, such as an employee from the personnel or human resources office.

**Reversed:** A conclusion by the Unemployment Insurance Appeal Board member or members that the decision of the Administrative Law Judge was not correct.

**Sequester:** To separate witnesses. If a party produces two or more witnesses, only the witness that is testifying will be allowed to remain in the hearing room. Other witnesses will be sent to a waiting area until it is their time to testify. The witnesses are separated so that they do not influence each other's testimony.

**Subpoena:** A legal document that directs an individual or business that is not a party to the hearing to produce a document for the hearing. It may also direct a specific person to testify at the hearing. The subpoena is signed by the Administrative Law Judge.

**Sustained:** A decision by an Administrative Law Judge that the initial determination was correct and should remain in effect.

**Testimony:** Statements given by parties or party witnesses under oath or affirmation.

**Unemployment Insurance Appeal Board:** An independent board made up of five members who are appointed by the Governor of New York State. The Board decides appeals that are taken from the decisions made by its Administrative Law Judges.

**Witness:** A person, other than a party, who testifies at a hearing.