

Article 41 - Scope

Part 4 contains rules specific to and are promulgated pursuant to miscellaneous statutory provisions granting the Board jurisdiction in certain areas. In applying these rules, the provisions of Article 12, General Rules, contained in Part 1 of these rules, are applicable to proceedings instituted under Part 4 to the extent they do not conflict with express provisions of Part 4.

Article 42 - Claims Against State Employees

Section 42.1 Jurisdiction

The Board shall hear and make final determination on appeals by employees pursuant to 3 V.S.A. §1102(c) from a determination by the attorney general that an alleged act or omission which resulted in a civil action being brought against the employee did not occur within the scope of the employee's official duties, provided that such appeal is filed within 30 days after receipt of notice of the determination of the attorney general.

Section 42.2 Contents of Appeal

The notice of appeal shall be in writing, signed by the appellant or his/her representative, and shall contain:

- (A) The full name and address of the person filing the appeal;
- (B) The full name and address of the employer involved;
- (C) A concise statement of the nature of the appeal;
- (D) A copy of the attorney general's notification to the employee that the alleged act or omission did not occur within the scope of the employee's official duties;
- (E) A copy of the pleadings in the civil action brought against the employee; and
- (F) A brief statement of facts concerning the appeal.

Section 42.3 Answer; Filing; Service

The attorney general shall have the right to file an answer within 20 days after service of the appeal. Upon application, the Board may extend the time within which the answer shall be filed.

Section 42.4 Contents of Answer; Denials

The answer shall admit or deny each specific allegation contained in the appeal or shall indicate any lack of knowledge or information thereof sufficient to form a belief. An allegation in the appeal not specifically denied in the answer, unless the party asserts that it is without knowledge or information thereof sufficient to form a belief, shall be deemed admitted and shall be so found by the Board. Allegations of new matter in the answer shall be deemed denied without the necessity of a reply.

Section 42.5 Admission by Failure to Answer

Failure to file a timely answer may be deemed by the Board to constitute an admission of the material facts alleged in the appeal and a waiver by the attorney general of an evidentiary hearing, leaving a question or questions of law to be determined by the Board.

Section 42.6 Hearing

The Board shall make a final determination on the appeal after an evidentiary hearing *de novo*.