
Recommendations

North Carolina is not required to offer higher authority appeals or to have a Board of Review to perform that function. Limitations in the availability of data that measure effectiveness, challenges in monetizing the benefits of higher authority appeals and the Board of Review, and conflicting evidence and opinions regarding the value of the Board of Review prevented the Program Evaluation Division from drawing conclusions as to whether the costs of administering the present system outweigh the benefits.

Nevertheless, if North Carolina is to continue to have the higher authority appeals function that has been in place since 1936 and the function is to be performed by the Board of Review that became operational in 2014, the Program Evaluation Division recommends that the General Assembly increase the Board of Review's independence and its own ability to monitor the board's operations.

Recommendation 1. The General Assembly should transfer staff from the Division of Employment Security to the Board of Review.

As discussed in Finding 5, the Board of Review's reliance on Division of Employment Security (DES) staff undermines the board's independence. Currently, the Board of Review relies on DES staff for recommendations on what decision it should render on appeals of DES determinations. The Board of Review reports that having two attorneys and four administrative staff dedicated exclusively to its work would allow it to operate more independently and effectively. The General Assembly should direct DES to transfer these positions to the Board of Review, and these positions should report to the Chair of the Board of Review. The General Assembly also should direct DES to transfer each year to the Board of Review an adequate amount of federal grant funds to cover the costs of these positions.

Recommendation 2. The General Assembly should modify statute to direct the Board of Review to develop policies, procedures, and standards for higher authority appeals operations.

Statute charges the Board of Review with the responsibility for developing policies and procedures for higher authority appeals. Finding 6 shows the board has not developed policies and procedures. As a result, the General Assembly should modify statute to be more explicit in requiring the Board of Review to develop the policies, procedures, and standards necessary to ensure consistency and continuity of higher authority appeals operations. The General Assembly should direct policies, procedures, and standards be developed within 90 days of passage of the law. Having staff dedicated exclusively to the Board of Review as proposed by Recommendation 1 would make these policy development efforts feasible.

Recommendation 3. The General Assembly should direct the Division of Employment Security to work with the Board of Review to track and collect the data necessary to support appeals operations.

To ensure the Board of Review has the data and information necessary to make continuous improvements to the operation of higher authority appeals, the General Assembly should direct the Division of Employment Security to work with the board to facilitate data collection and track the following data at a minimum:

- reversals of board determinations by superior courts;
- referrals from staff attorneys for dismissals, short affirms, and long decisions;
- cases remanded back to lower authority appeals or referred to the Legal Section for modification; and
- deviations between the recommendations made by staff attorneys and the determinations of the board.

To ensure timely access to data, the Board of Review should begin collecting this data within 30 days of the completion of policies, procedures, and standards.

Having staff dedicated exclusively to the Board of Review as proposed by Recommendation 1 would make these data collection efforts feasible.

Agency Response

A draft of this report was submitted to the Board of Review and Division of Employment Security to review. Their responses are provided following the report.

Program Evaluation Division Contact and Acknowledgments

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