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complex or controversial legal issue involved in the appeal which warrants such an opinion.

(c) *Notification of evidence to be considered by the Board and opportunity for response.* If the Board requests an opinion pursuant to this section, it will notify the appellant and his or her representative, if any. When the Board receives the opinion, it will furnish a copy of the opinion to the appellant, subject to the limitations provided in 38 U.S.C. 5701(b)(1), and to the appellant's representative, if any. A period of 60 days from the date the Board furnishes a copy of the opinion will be allowed for response, which may include the submission of relevant evidence or argument. The date the Board furnishes a copy will be presumed to be the same as the date of the letter or memorandum that accompanies the copy of the opinion for purposes of determining whether a response was timely filed.

(d) For purposes of this section, the term ''the Board'' includes the Chairman, the Vice Chairman, any Deputy Vice Chairman, and any Member of the Board before whom a case is pending.

(Authority: 38 U.S.C. 5107(a), 7102(c), 7104(a), 7104(c))

[84 FR 188, Jan. 18, 2019]

§§ 20.805–20.899 [Reserved]

Subpart J—Action by the Board in Legacy Appeals

§ 20.900 Rule 900. Applicability.

The provisions in this subpart apply to Board decisions and remands rendered in legacy appeals, as defined in § 19.2 of this chapter.

(Authority: Sec. 2,115–55; 131 Stat. 1105)

[84 FR 190, Jan. 18, 2019]

§ 20.901 Rule 901. Submission of additional evidence after initiation of appeal.

Subject to the limitations set forth in Rule 1304 (§ 20.1304 of this part), an appellant may submit additional evidence, or information as to the availability of additional evidence, after initiating an appeal. The provisions of this section do not apply in proceedings before the General Counsel conducted under part 14 of this chapter to cancel accreditation or to review fee agreements and expenses for reasonableness.

(Authority: 38 U.S.C. 5902, 5903, 5904; 38 U.S.C. 5904, 7105(d)(1) (2016))

[57 FR 4109, Feb. 3, 1992, as amended at 73 FR 29879, May 22, 2008. Redesignated and amended at 84 FR 188, 190, Jan. 18, 2019; 84 FR 4337, Feb. 15, 2019]

§ 20.902 Rule 902. Order of consideration of appeals.

(a) *Docketing of appeals.* Applications for review on appeal are docketed in the order in which they are received.

(1) A case returned to the Board following action pursuant to a remand assumes its original place on the docket.

(2) A case returned to the Board following the grant of a substitution request or pursuant to an appeal of a denial of a substitution request assumes the same place on the docket held by the deceased appellant at the time of his or her death. Pursuant to paragraph (c) of this section, if the deceased appellant's case was advanced on the docket prior to his or her death, the substitute will receive the benefit of the advanced placement.

(b) *Appeals considered in docket order.* Except as otherwise provided in this Rule, appeals are considered in the order in which they are entered on the docket.

(c) *Advancement on the docket*—(1) *Grounds for advancement.* A case may be advanced on the docket on the motion of the Chairman, the Vice Chairman, a party to the case before the Board, or such party's representative. Such a motion may be granted only if the case involves interpretation of law of general application affecting other claims, if the appellant is seriously ill or is under severe financial hardship, or if other sufficient cause is shown. ''Other sufficient cause'' shall include, but is not limited to, administrative error resulting in a significant delay in docketing the case, administrative necessity, or the advanced age of the appellant. For purposes of this Rule, ''advanced age'' is defined as 75 or more years of age. This paragraph does not require the Board to advance a case on the docket in the absence of a motion of a party to the case or the party's representative.