

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0980**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On July 1, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding benefits based on earnings from an educational institution were payable to claimant during the between terms recess period (decision # 95151). The employer filed a timely request for hearing. On August 11, 2016, ALJ Vincent conducted a hearing, and on August 17, 2016 issued Hearing Decision 16-UI-65822, concluding benefits were not payable. On August 22, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

**CONCLUSIONS AND REASONS:** This matter must be reversed and remanded for completion of the record.

ORS 657.275 provides that EAB shall review the record of the case and promptly affirm, modify, or set aside the decision of the ALJ if the Director of the Department or any interested party files a timely application for review. However, the record in this matter is incomplete, and it appears that further proceedings are or may be necessary before the record can be provided. Specifically, Exhibit 3, described by the ALJ as including a cover page, a copy of the administrative decision, a copy of a school employee questionnaire, a copy of the May 16, 2016 letter from Ms. Angle, a copy of an email from Ms. Hobson to Ms. Thomas at the Department, and a forwarded copy of an email prepared by claimant and sent from Ms. Pinto at the Department to Ms. Hobson, is missing from the record provided by OAH. Although some contents of Exhibit 3 are repetitive of the contents of other exhibits or record documents, others are unique to Exhibit 3, and the record is incomplete without them. We must therefore reverse Hearing Decision 16-UI-65822 as unsupported by a complete record, and remand for such other and further proceedings as may be necessary to complete the record.

**DECISION:** Hearing Decision 16-UI-65822 is set aside, and this matter remanded for further proceedings consistent with this order.

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 16-UI-65822 or return this matter to EAB. Only a timely application for review of the subsequent hearing decision will cause this matter to return to EAB.

J. S. Cromwell and D. P. Hettle;  
Susan Rossiter, not participating.

**DATE of Service: August 25, 2016**

**NOTE:** You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. *See* ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the Court of Appeals website at [courts.oregon.gov](http://courts.oregon.gov). Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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