**Section 1540.270 Written Appeals and Hearings**

a) Definition of Terms

"Authorized Representative" – a person representing a Petitioner in a written appeal or hearing.

"Executive Committee" – a committee consisting of one member of the Board of Trustees, the Chairperson of the Board or the Chairperson's designee, and the Executive Secretary of SERS or the Secretary's designee, which shall meet periodically for the purpose of hearing all administrative contested matters and making recommendations to the Board of Trustees who shall make the final decision. At any time, the Chairperson of the Board or the Executive Secretary of SERS may appoint an alternate designee to serve on the committee in place of the designee that the Chairperson or Secretary has previously appointed.

"Executive Secretary" – the person designated as the official custodian of all papers and documents filed in proceedings before the Executive Committee.

"Hearing" – the reconsideration by the Executive Committee of the initial disposition of a claim, at which the Petitioner appears in person or by an Authorized Representative, either at the hearing or by video or audio conference.

"Hearing Officer" − a member of the Executive Committee or an attorney retained by the Executive Committee for the purpose of conducting hearings and communicating the Executive Committee's findings of fact, conclusions of law, and recommendation to the Board of Trustees.

"Legal Action" − any action, following the final denial by the Board of Trustees, in which a member is seeking relief in State or federal court for a disputed claim.

"Petition" – a written request made by a Petitioner or Authorized Representative for a hearing, a written appeal, a rehearing, or a written reappeal before the Executive Committee.

"Petitioner" – an individual who requests by Petition:

a hearing or a written appeal before the Executive Committee for reconsideration of the initial disposition of a claim; or

a rehearing or written reappeal before the Executive Committee for reconsideration of the disposition of a hearing or written appeal.

"Rehearing" – the reconsideration by the Executive Committee of the disposition of a hearing or written appeal, at which the Petitioner appears in person or by an Authorized Representative, either at the hearing or by video or audio conference.

"System" – the State Employees' Retirement System of Illinois.

"Video or Audio Conference" − hearing or rehearing before the Executive Committee for which the Petitioner or Authorized Representative is not physically present and the proceeding before the Executive Committee is conducted through video and audio technology.

"Written Appeal" – the reconsideration by the Executive Committee, based upon written evidence, of the initial disposition of a Petitioner's claim, at which the Petitioner does not appear either in person or by an Authorized Representative.

"Written Reappeal" – the reconsideration by the Executive Committee, based upon written evidence, of the disposition of a hearing or written appeal, at which the Petitioner does not appear either in person or by an Authorized Representative.

b) Administrative Determination

The administrative staff of the System shall be responsible for the daily functioning of the System, including the processing of all claims for benefits payable by the System, all claims for service credits granted by the System, and all claims against or relating to the System.

c) Right of Appeal

Any member, annuitant or beneficiary adversely affected by the initial disposition of a claim by the System's staff may have the disposition of the claim reconsidered either at a hearing before the Executive Committee or by filing a Written Appeal with the Executive Committee.

d) Written Appeals to Executive Committee

1) Communication to Executive Committee

All Petitions for Written Appeal shall be directed to the Executive Secretary of SERS at its Springfield Office and must be received within 30 days following the notification of the initial disposition of the claim.

2) Form of Written Appeal

A Petition for a Written Appeal shall set forth the name and address of the Petitioner, the name and address of the Petitioner's Authorized Representative if applicable, a brief statement of the facts forming the basis of the written appeal, which must include any new or additional evidence, and the relief sought.

3) Disposition of Written Appeal

A) The Executive Committee shall consider a Petition for Written Appeal at the next regular meeting of the Executive Committee more than 15 days after the receipt of the Petition.

B) Following the written appeal and the receipt of all supplemental material requested, the recommendation of the Executive Committee shall be communicated in writing to the Petitioner and Authorized Representative, if applicable, and the appropriate action shall be implemented by the Executive Committee subject to the approval of the Board of Trustees.

4) Continuances and Extensions of Time

Continuances and extensions of time shall be granted by the Executive Committee when it is demonstrated that obtaining and presenting additional evidence is necessary to render a fair and equitable decision on the written appeal before the Committee.

5) Minutes and Records of Written Appeals

A) Minutes of every meeting of the Executive Committee and a record of all written appeals before the Executive Committee shall be kept by the Executive Secretary of SERS at its Springfield Office.

B) The Executive Secretary of SERS shall be the official custodian of all papers and documents filed in proceedings before the Executive Committee.

e) Hearings Before the Executive Committee

1) Communication to the Executive Committee

All Petitions for Hearings shall be made to the Executive Secretary of SERS at its Springfield Office and must be received within 30 days following the notification of the initial disposition of the claim.

2) Appearance

Any Petitioner or Authorized Representative may appear at a hearing before the Executive Committee, either in person or by video or audio conference.

3) Form of Petition

Petitions may be informal or formal and shall be presented by letter or other writing. A petition shall set forth the name and address of the Petitioner, the name and address of the Authorized Representative, if applicable, a brief statement of the facts forming the basis of the petition, which must include any new or additional evidence and the relief sought.

4) Notice of Hearing

Upon scheduling of a hearing before the Executive Committee, a Petitioner shall be provided with written notice of: the date, time and place of the hearing; the subject matter of the hearing; and relevant procedural and substantive statutory and regulatory provisions. Notice of the hearing shall also inform the Petitioner that the Petitioner will be afforded the opportunity to provide a statement of the Petitioner's position, present oral evidence, and conduct examination and cross-examination of witnesses as necessary for full and true disclosure of the facts. In the absence of the Petitioner, the Executive Committee will consider the Petitioner's Petition and such other matters as may be properly brought before it at the hearing.

5) Prehearing Conferences

A) Upon written request by the Executive Committee or a Petitioner or Authorized Representative, a conference shall be conducted for the purpose of formulating issues and considering:

i) The simplification of issues;

ii) The amendment of pleadings;

iii) The making of admissions of facts or stipulations for the purpose of avoiding the unnecessary introduction of evidence;

iv) The procedure at the hearing;

v) The limitation of the number of witnesses; and

vi) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

B) The persons attending the prehearing conference may enter into a written stipulation as to matters decided in the prehearing conference.

C) No minutes shall be kept of the prehearing conference. Facts disclosed in the course of the prehearing conferences are privileged and, except by agreement, shall not be used against the Petitioner or any other party attending the prehearing conference either before the Executive Committee or elsewhere unless fully substantiated by other evidence.

6) Conduct of Hearings

A) Hearings shall be conducted before the Executive Committee by the Hearing Officer and shall be of an informal nature.

B) The Hearing Officer shall direct all parties to enter their appearances on the record. The Hearing Officer shall conduct a full and fair hearing, receive testimony of the claimant and admit exhibits into evidence, avoid delay, maintain order and make a sufficient record for a full and true disclosure of the facts and issues. To accomplish these ends, the Hearing Officer shall make all procedural and evidentiary rulings necessary for the conduct of the hearing.

C) Parties may, by written stipulation, agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding.

D) Irrelevant material or unduly repetitious evidence shall be excluded.

7) Documentary Evidence

Whenever possible, documents and exhibits shall be introduced by stipulation of the parties. Originals of documents shall be introduced into evidence with leave of the Hearing Officer to substitute the originals with copies. Whenever possible, the parties shall interchange copies of exhibits or other pertinent material before the hearing at which they are to be offered.

8) Briefs and Oral Arguments

Written briefs and oral arguments shall be allowed at the request of the Petitioner. The time limitations upon the oral argument shall be determined by the Hearing Officer having regard to the magnitude and complexity of the issues involved and the other business of the Executive Committee. All testimony shall be taken under oath before an officer authorized to administer oaths by the laws of this State or of the United States or of the place where the testimony is to be given.

9) Disposition of Hearing

Following the hearing and receipt of all supplemental material requested, the Executive Committee, following its next scheduled meeting, shall communicate its recommendation in writing to the Petitioner and Authorized Representative, if applicable. The recommendation shall contain a sufficient statement of the facts, all necessary findings of fact and conclusions of law, and a suggested decision or decisions of the Board of Trustees. The appropriate action shall be implemented by the Executive Committee subject to the approval of the Board of Trustees.

10) Continuances and Extensions of Time

Continuances and extensions of time shall be granted by the Executive Committee or the Hearing Officer when it is demonstrated that obtaining and presenting additional evidence or witnesses is necessary to render a fair and equitable decision on the hearing before the Executive Committee.

11) Minutes and Record of Hearing

A) Minutes of every meeting of the Executive Committee and a record of all hearings before the Executive Committee shall be kept by the Executive Secretary of SERS at its Springfield Office.

B) Two records of proceedings shall be kept that shall be in the form of a non-verbatim bystander's record of the proceedings and either a stenographic transcription or a tape recording. The record shall be available to the Petitioner or Authorized Representative prior to the Executive Committee making its recommendations.

C) The Executive Secretary of SERS shall be the official custodian of all papers and documents filed in proceedings before the Executive Committee.

12) Disqualification; Ex Parte Communications

A) Disqualification

i) A Hearing Officer or other member of the Executive Committee may be disqualified on grounds of bias or conflict of interest. A motion to disqualify a Hearing Officer or other member of the Executive Committee for bias or conflict of interest should be made to the Hearing Officer by any party to the hearing at least one week prior to the commencement of the hearing. The motion shall be heard, considered, and ruled upon by the Hearing Officer or, when necessary, by the Executive Committee at or prior to the commencement of the hearing. The movant shall have the burden of proof with respect to the motion to disqualify. Either an adverse ruling or the fact that a Hearing Officer or other member of the Executive Committee is an employee of the System or has a contract with the System, standing alone, shall not constitute bias or conflict of interest.

ii) The Executive Director may not be called as a witness unless it is demonstrated that the Executive Director has relevant noncumulative personal knowledge of facts bearing upon the claim. The Executive Director may not be disqualified as a member of the Executive Committee on the basis that the Executive Director is responsible for the overall administration of the System.

iii) In the event that the Executive Committee is reduced to fewer than two members, the Board President may appoint another person to the Executive Committee.

B) *Ex Parte Communications Prohibited. Except in the disposition of matters that* the System *is authorized by law to entertain or dispose of on an ex parte basis,* employees of the System and the members of the Executive Committee *shall not, after* receiving *notice of* a *hearing in a contested* matter*, communicate, directly or indirectly, in connection with any issue of fact, with any party, or in connection with any other issue with any party, or the representative of any party, except upon notice and opportunity for all parties to participate. However,* an employee of the System *may communicate with other* employees of the System and an employee of the System or member of the Executive Committee *may have the aid and advice of one or more assistants. An ex parte communication received by any* employee of the System and member of the Executive Committee *shall be made a part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received. Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications.* [5 ILCS 100/10-60]

f) Rehearings and Written Reappeals

1) Purpose of Rehearing and Written Reappeal

The Executive Committee will grant a rehearing or written reappeal by majority approval only for the purpose of considering new or additional evidence not previously available.

2) Procedures for Rehearing

The procedures set forth in subsection (e) (Hearings Before the Executive Committee) shall apply to rehearings, except that a Petition for a Rehearing must be received within 90 days following the notification of the final decision of the Board of Trustees with respect to the recommendation of the Executive Committee.

3) Procedures for Written Reappeal

The procedures set forth in subsection (d) (Written Appeals to Executive Committee) shall apply to written reappeals, except that a Petition for a Written Reappeal must be received within 90 days following the notification of the final decision of the Board of Trustees with respect to the recommendation of the Executive Committee.

g) Decisions of Board of Trustees

1) Decisions of the Board of Trustees shall be final administrative decisions subject to the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

2) Communication to Petitioner

The decision of the Board of Trustees shall be communicated in writing to the Petitioner and Authorized Representative, if applicable.

h) A request for a retirement annuity or a refund of contributions shall be granted when legal action is pending on a disputed disability claim. Should the member receive a favorable decision on the legal action against the System and request additional disability benefits with regard to the disputed claim for a period beyond the effective date the retirement annuity or refund of contributions, the member must repay all retirement benefits or refund of contributions within 30 days after notification by the System of the amount due.

(Source: Amended at 47 Ill. Reg. 16043, effective October 26, 2023)