**Section 1600.500 Administrative Staff Determinations and Rules for Appeal − Nature and Requirements of Formal Hearings**

a) Administrative Determination

The Board of Trustees hereby delegates to the SURS administrative staff the responsibility for the daily claims-processing function of SURS, including making initial determinations as to all applications for annuities and benefits, service credit, or any other claims against or relating to SURS, consistent with the provisions of the Illinois Pension Code.

b) Review by Senior Claims Management

Any participant, annuitant or beneficiary adversely affected by the disposition of a claim by the administrative staff may file a written request for review by a member of the SURS senior claims management or such other person as may be designated by the Executive Director. A request for review by the member of senior claims management must be received within 35 days from the date of the decision from which review is sought. The review will be based upon all materials contained in the file, as well as any additional materials the claimant attaches to the written request for review. All filings or submissions, whether optional or required under this Section, shall be considered timely if date stamped by SURS within the time prescribed. The decision reached by senior claims management or the Executive Director's designee shall be served on the participant, annuitant or beneficiary by delivery to a third-party commercial carrier or by registered or certified mail, return receipt requested.

c) Review by the Claims Panel

1) A Claims Panel shall hear all administrative contested matters. The Panel shall meet periodically as determined by the Executive Director.

2) Request for Review. Any participant, annuitant or beneficiary (hereinafter "claimant") adversely affected by the disposition of a claim by the member of senior claims management or the Executive Director's designee may request, in writing, a review by the Claims Panel and, at the same time, a copy of all relevant documents from the claimant's file. A request for review must be received by the General Counsel of SURS, or the General Counsel's designee, within 35 days from the date of the decision from which review is sought.

3) Notice of Hearing. Upon receipt of a claimant's Request for Review, SURS shall assign the claim a docket number; schedule the claim for the first available meeting of the Claims Panel; and notify the claimant, by a Notice of Hearing, that the claimant is required to file a single Statement of Claim. The Notice of Hearing may be accompanied by any relevant documentation from the claimant's file.

4) Statement of Claim. The Statement of Claim must be received by the SURS General Counsel, or the General Counsel's designee, no later than 35 days from the date of the mailing of the Notice of Hearing. The Statement of Claim shall include: a formal Appearance, containing the claimant's name, SURS identification number and address; the name and address of the claimant's authorized representative, if any; a statement of the facts forming the basis for the appeal; any documents or other materials the claimant wishes to be considered in conjunction with the appeal, in addition to those already contained in the claimant's file; whether the claimant desires a hearing or whether the claimant desires to waive a hearing and allow the Claims Panel to reach a decision based upon the Statement of Claim and the relevant documents in the claimant's file; a list of witnesses, if any, the claimant intends to present at a hearing; and an explanation of the relief sought. The Statement of Claim shall not exceed 15 pages in length, unless an exception is granted by the Claims Panel Hearing Officer. The Hearing Officer may grant a motion to Strike/Dismiss all or part of the Statement of Claim.

5) Response to Statement of Claim. SURS staff may submit a Response to the Statement of Claim, which shall also not exceed 15 pages in length, unless an exception is granted by the Claims Panel Hearing Officer.

6) Notification. The Notice of Hearing shall also provide a claimant *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* [5 ILCS 100/10-25]. The Notice shall inform the claimant of an opportunity to provide a statement of the claimant's position, present oral evidence, and conduct examination and cross-examination of witnesses as necessary for full and true disclosure of the facts. Notice shall also be given to the claimant that the claimant is required to provide written confirmation, at least 14 days prior to the scheduled date of the hearing, of the claimant's intent to appear at the hearing, whether in person or by telephone conference call. The claimant is not required to physically appear at the hearing. The claimant may appear at the hearing by telephone conference call. The claimant may also choose to affirmatively waive personal appearance at the hearing. In the absence of the claimant, the Claims Panel will consider the claimant's Statement of Claim and any documentary evidence, testimony evidence, argument and any other information properly presented to the Claims Panel by SURS staff during the scheduled hearing.

7) Pre-hearing Conference. Upon request of the General Counsel, the claimant, or upon the decision of the Hearing Officer, a pre-hearing conference shall be held for the purpose of simplification or definition of issues or procedures at the hearing.

8) Legal Representation and Other Assistance. The claimant and SURS may be represented by legal counsel and/or assisted by a designated family member or spokesperson at the hearing.

9) Burden of Proof. It shall be the burden of the claimant to establish a right to the benefit claimed, or the right to the continuation of the benefit claimed in cases of revocation of the benefit by SURS, by establishing that right by a preponderance of the evidence.

d) Discovery. All discovery is at the discretion of the Hearing Officer. Requests to take discovery must be made in writing to the Hearing Officer with notice to the other party. Discovery may be taken with the prior permission of the Hearing Officer only upon good cause shown, that is, if the evidence sought is material and cannot be obtained in any other way. Failure to comply with orders of the Hearing Officer may be sanctioned by the Hearing Officer, by means including, but not limited to, dismissal of a claim.

e) Depositions

1) The Hearing Officer may order the taking of evidence depositions of a person, specifying the subject matter to be covered, under oral examination or written questions, for use as evidence at the hearing, provided:

A) The Hearing Officer has determined upon request that there is a need to preserve a person's testimony. The need to preserve a person's testimony shall be determined using criteria similar to that set forth under Illinois Supreme Court Rule 212(b);

B) The request is made on motion by a party who gives notice of the motion to the other party;

C) The Hearing Officer has determined that an evidence deposition containing oral testimony will be necessary to the Claims Panel in determining the merits of the claim; and

D) The Hearing Officer shall not grant any request to take the evidence deposition of any SURS trustee, employee, or consultant working on behalf of SURS. Requests for oral testimony at the hearing from these individuals must be filed with the Hearing Officer for determination.

2) The taking of depositions shall be in accordance with the provisions for taking depositions in civil cases, and the order for the taking of a deposition may provide that any deposition exhibits, designated books, papers, documents or tangible objects that are not privileged shall be produced by the party requesting the deposition at least 7 days in advance of the scheduled deposition.

3) Any party to the hearing shall, during any deposition process, have the right to confront and cross-examine any witness whose deposition testimony is to be presented to the Claims Panel.

4) Depositions shall be taken in the county of residence or employment of the witness, unless the witness waives that right in writing.

5) Depositions shall be taken at the cost of the party requesting the deposition. All deposition-related expenses shall be paid by the party requesting the deposition. The party requesting the deposition shall pay for and submit an original sealed transcript of the evidence deposition to SURS in advance of the Claims Panel hearing. The non-requesting party may order and pay for its own copy of the transcript.

f) Subpoenas

1) The Hearing Officer may request the Secretary of the Board to issue a subpoena to compel the attendance of a witness at an evidence deposition or the production of documents when the witness has, or the documents contain, relevant evidence. A party may also request the Hearing Officer to request the Secretary of the Board to issue a subpoena to compel the attendance of a witness at an evidence deposition or the production of documents. The request shall either be in writing or on the record and shall:

A) Identify the witness or document sought; and

B) State the facts that will be proven by each witness or document sought.

2) The Hearing Officer shall grant or deny the request, either in writing or on the record. If the request for subpoena is granted, the Hearing Officer shall, if necessary, reschedule the hearing to a specific date. The request for subpoena shall be denied if the Hearing Officer finds that the evidence sought is immaterial, irrelevant or cumulative. If the request for subpoena is denied, the specific reasons for denial of the request shall be made part of the record on appeal.

3) If a witness fails to obey a subpoena, the party seeking enforcement of the subpoena shall prepare an application to the circuit court of the county in which the subpoenaed witness resides requesting enforcement of the subpoena, and shall present the application to the Hearing Officer, at the same time serving a copy of the application upon the other party. If satisfied that the subpoena was properly served and that the application is in proper form, the Hearing Officer shall sign a subpoena to be submitted with the application and the party seeking the subpoena may then file and prosecute the application in the circuit court, in the name of the Board. The petitioner in the application shall be styled as "Name of Petitioner ex rel. Board of Trustees of the State Universities Retirement System" unless the petitioner is SURS, in which case the petition shall be brought in the name of the Board. In the event of an application being filed with the circuit court, the matter shall be continued pending the outcome of the application to enforce the subpoena.

4) The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the circuit courts of this State and shall be paid by the party seeking the subpoena.

g) Conduct of the Hearing

1) Hearing Officer. The hearing shall be conducted by the Hearing Officer. The Hearing Officer shall be an attorney licensed to practice law in the State of Illinois and approved by the Board. Other members of the Claims Panel may, but are not required to, attend the hearing. Members may attend hearings either in-person or by video or teleconference.

A) The Hearing Officer shall have full power to conduct the hearing and the presence of any other members of the Claims Panel is not required. The Hearing Officer shall be one of the members of the Claims Panel and shall be chosen by SURS to serve in that capacity.

B) The Claims Panel shall consist of:

i) the Executive Director of SURS;

ii) the Hearing Officer; and

iii) one other person, selected by the Chairperson of the Board of Trustees of SURS, who shall be a member of the Board.

C) Each member of the Panel shall be reimbursed for travel or other related expenses incurred in connection with duties as a member of the Panel. The Hearing Officer shall receive reasonable compensation and reimbursement for travel or other related expenses incurred per the terms of the contract with SURS.

D) At a minimum, the members of the Claims Panel shall have a general familiarity with the provisions of the Illinois Pension Code, this Part and the internal operating procedures of SURS.

2) Procedures

A) 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.

B) To accomplish these ends, the Hearing Officer shall make all procedural and evidentiary rulings necessary for the conduct of the hearing.

C) 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.

D) As a general matter, *the rules of evidence as applied in civil cases in the circuit courts of the State of Illinois shall be followed; however, evidence inadmissible under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Any part of the evidence may be received in written form, provided that the interests of the parties will not be prejudiced. Notice may be taken of generally recognized technical facts within* SURS' *specialized knowledge and* SURS' *experience, technical competence and specialized knowledge may be used in evaluation of the evidence.* [5 ILCS 100/10-40]

E) The Hearing Officer, and any member of the Claims Panel attending the hearing, may ask questions necessary for better understanding of the facts or law.

F) The Hearing Officer shall have the authority to impose reasonable time limits for each party to present its case and shall, in general, have the power to manage and control the hearing process.

G) The hearing shall be open to the public and conducted pursuant to the Open Meetings Act [5 ILCS 120].

3) Record of Proceedings. The record of proceedings shall be kept in the form of either a stenographic transcription or an audio recording. The claimant may directly obtain a stenographic transcription of the hearing from the stenographer or request a copy of the audio recording of the hearing from SURS by making a request after the close of the hearing and paying the actual cost charged by the stenographer for the transcription.

4) Disqualification; Ex Parte Communications

A) Disqualification

i) *A Hearing Officer* or other member of the Claims Panel *may be disqualified* *on grounds of bias or conflict of interest*. A motion to disqualify a Hearing Officer or other member of the Claims Panel for bias or conflict of interest shall be made to the Hearing Officer by any party to the hearing within 14 days after the issuance of the notice of the hearing, with a copy of the motion to be simultaneously submitted to the SURS General Counsel. The motion shall be heard, considered and ruled upon by the Hearing Officer at or prior to the commencement of the hearing. The movant shall have the burden of proof with respect to the motion to disqualify. An *adverse ruling*, familiarity with the facts of the case, non-dispositive involvement in the staff decision underlying the case, or the fact that a Hearing Officer or other member of the Claims Panel is a SURS trustee, an employee of SURS or has a contract with SURS, standing alone, *shall not constitute bias or conflict of interest*. [5 ILCS 100/10-30]

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 Claims Panel on the basis that the Executive Director is responsible for the overall administration of SURS.

iii) In the event that any member of the Claims Panel is disqualified or is otherwise unable to serve, the Board Chairperson may appoint another qualified person to the Claims Panel. The Board Chairperson shall appoint another person if the Claims Panel is reduced to fewer than two members. If the Hearing Officer is disqualified or is otherwise unable to serve, SURS may retain another duly licensed attorney who may serve as the Hearing Officer.

B) Ex Parte Communications Prohibited

i) *Except in the disposition of matters that SURS is authorized by law to entertain or dispose of on an ex parte basis, the* *members of the Claims Panel 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 SURS may communicate with other employees of SURS and an employee of SURS or member of the Claims Panel may have the aid and advice of one or more assistants.* *An ex parte communication received by* *any* *member of the* *Claims Panel* *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,* and questions concerning potential conflict of interest and possible recusal *are not considered ex parte communications.* [5 ILCS 100/10-60]

ii) Any documentary evidence, testimony evidence, argument and any other information properly presented to the Claims Panel by SURS staff during a scheduled hearing held in the absence of a claimant who waived the right to participate in the hearing will not be deemed to be ex parte communications.

5) Decisions of the Claims Panel and Executive Committee

A) Claims Panel Decisions

i) The record of proceedings shall be completed upon conclusion of the hearing by the Hearing Officer, unless the Hearing Officer determines to re-open the proceedings. In compliance with the Illinois Open Meetings Act, upon conclusion of all evidence and arguments, the Claims Panel shall deliberate in closed session and make a Decision as to the disposition of the claim based on the evidence of record when they return to open session. The Claims Panel Decision shall be served on all parties and their agents, if any, by delivery to a third-party commercial carrier or by registered or certified mail, return receipt requested. If a Statement of Exceptions to the Decision is not filed pursuant to this subsection (g)(5)(A), the Decision is final for all purposes and not subject to administrative or judicial review. However, if a Statement of Exceptions to the Decision is filed or, if the members of the Panel are unable to agree on a Decision, then the claim shall be presented to the Executive Committee for a final administrative decision.

ii) If a Statement of Exceptions is filed by either party, it must be received by SURS, along with a brief in support, within 21 days after the date of mailing of the Claims Panel Decision. SURS will pay to procure a copy of the verbatim transcript of the Claims Panel proceedings. Any responsive brief filed by the opposing party shall be received by SURS within 21 days after the filing of the Statement of Exceptions. Any reply brief shall be received by SURS within 14 days after the filing of the responsive brief. The filing of any responsive or reply brief is optional. The Executive Director, or The Director's designee, shall provide the Executive Committee with a copy of the decision of the Claims Panel. The Executive Committee will make a final administrative decision based on the Claims Panel Decision, any Statement of Exceptions, and/or briefs properly filed. All filings shall be served upon the opposing party and shall contain a certificate of service. Filing deadlines in this subsection (g)(5)(A)(ii) may be continued to a date certain by the Chairperson of the Executive Committee for good cause shown on written application filed with SURS prior to the expiration of the deadline sought to be continued.

iii) If the claim is presented to the Executive Committee because the members of the Claims Panel are unable to agree on a Decision, the Executive Committee shall make a final administrative decision based on the written record, the verbatim transcription of the proceedings, and any briefs properly filed with the Claims Panel by the parties. SURS will pay to procure a copy of the verbatim transcript of the Claims Panel proceedings.

B) Executive Committee Decision

i) When necessary pursuant to subsection (g)(5)(A), the Executive Committee of the Board shall make a decision on the claim. No oral argument shall be permitted before the Executive Committee.

ii) The Executive Committee shall render one of the following decisions with respect to the claim: affirmance of the administrative action, reversal of the administrative action, or remand of the case to the administrative staff for further investigation and/or consideration. Remand of the case to the administrative staff shall not be considered a final decision of the Executive Committee. A decision by the Executive Committee either reversing or affirming the decision of the administrative staff shall constitute a final decision for the purpose of review under the Administrative Review Law [735 ILCS 5/Art. III]. *A final decision of the Executive Committee shall be in writing or stated in the record.*

iii) The Executive Committee may adopt, as its own, the findings of fact and conclusions of law of the Claims Panel. *Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.*

iv) *All decisions of the Executive Committee shall specify whether they are final and subject to the Administrative Review Law.* [5 ILCS 100/10-50]

v) Parties and their agents, if any, shall be notified by sending the decision of the Executive Committee via a third-party commercial carrier, or by registered or certified mail, return receipt requested. The date of mailing of the decision shall constitute the date of service for purposes of the Administrative Review Law or any other applicable law.

(Source: Amended at 47 Ill. Reg. 14005, effective September 14, 2023)