

**HEARING PROCEDURES  
AS ADOPTED BY STATE BOARD OF PENSION TRUSTEES (“BOARD”)**

**Appeals:**

1. The Board is empowered to hear appeals from decisions of the Executive Secretary pursuant to 29 Del. C. § 8308(b)(3). The Pension Administrator is the Executive Secretary of the Board. Board Handbook, Board Operating Policy, Page 7.
2. A written request for a hearing before the Board must be filed with the Pension Office within twenty (20) days after receipt of written notice of the decision of the Pension Administrator.
3. A Hearing will be scheduled within two to three months in the County closest to the Appellant’s home address, at the next available hearing date.

**Before the Hearing:**

1. The Deputy Attorney General to the Board will conduct a Prehearing Conference at least one month prior to the appeal date. The purpose of a Prehearing Conference will be to identify whether the Appellant will be represented by Counsel, to identify issues, documents and witnesses.
2. The Board is empowered to issue subpoenas and require the production of documents. Any party to the hearing may request the issuance of a subpoena to insure an appearance by a witness to obtain documents, by contacting the Board’s Pension Paralegal at [cindy.starr@state.de.us](mailto:cindy.starr@state.de.us), or (302) 744-4400 at least two weeks prior to the hearing. 29 Del. C. § 8308(c)(7).
3. Either party may request that the Board issue an order to produce documents relevant to the appeal.

**Conduct of Hearings**

1. The Hearing shall be conducted by two members of the Board who will act as Hearing Officers. 29 Del. C. § 8308(c)(9)a. They will be represented by a Deputy Attorney General.
2. The Pension Office will be represented by a Deputy Attorney General.
3. The Appellant may be represented by counsel.

4. The Hearing Officers shall hear the evidence and arguments presented by the parties, consistent with 29 Del. C. Ch. 100, Administrative Procedures Act, and 29 Del. C. § 8308(c)(8).
5. The Hearing Officers shall have all the powers of the Board in exercise of their responsibilities during the hearing, including those powers set forth in 29 Del. C. § 10125 and §8308(c)(7) and (8). All testimony shall be taken under oath.
6. Appellant shall appear personally and may be represented by counsel. Appellant may offer evidence in support of his/her application, including witnesses and documents. Appellant shall testify in his/her behalf and permit examination by the Board.
7. Appellant may open the hearing with a brief statement of what he/she intends to establish, or waive such right. In the interests of clarity, and at the discretion of the Hearing Officers, the presentation of evidence may begin by either the Appellant or the Pension Office.
8. All evidence that is relevant, material, reliable, probative, and not unduly repetitious or cumulative shall be admissible, in the sole and exclusive discretion of the Hearing Officer(s).
9. Objections to the admission or exclusion of evidence shall be brief, with grounds for the objection identified.
10. Any offer of proof made in connection with an objection taken to the admission or exclusion of evidence shall consist of a statement of what factual evidence or expert opinion the proponent contends would lead to relevant probative and admissible evidence.
11. Subsequent to his/her initial testimony, any witness may be examined by any party of record or his/her counsel.
12. An Appellant may obtain a copy of the record of the hearing, but shall be responsible to pay the cost of transcription.

#### **POST – HEARING**

1. The Hearing Officers shall prepare a report and recommendation to the Board setting forth the findings of fact, conclusions of law, and recommendations based on these Findings within 60 days of the hearing for consideration at the next regularly scheduled Board meeting. 29 Del. C. § 8308(c)(9)b.
2. The Board may accept, reject or modify the Hearing Officers decision and shall prepare a Final Decision. The final Decision shall be mailed to the parties of record within five (5) days of the Board meeting. 29 Del. C. § 8308(c)(9)c.

3. A final decision of the Board may be appealed to the Superior Court within thirty (30) days after the date upon which the decision is mailed to the parties on record at their designated addresses via first class U.S. mail. 29 Del. C. § 8308(c)(9)d.