

Public Safety Personnel Retirement System
Revised Model Uniform Rules of Local Board Procedure
Created Pursuant to A.R.S. § 38-847(F)

Adopted by the Public Safety Personnel Retirement System Board of Trustees on
November 16, 2016

A. Definitions

1. "A.R.S." means Arizona Revised Statutes.
2. "Administrator" means the Administrator of the Plan (including any persons authorized by the Administrator to act for the Administrator) acting for the benefit of the Board of Trustees as more particularly described in A.R.S. § 38-848(L).
3. "Board of Trustees" has the meaning ascribed to that term in A.R.S. § 38-842(8).
4. "Claim" means any request for relief under the Plan involving all questions of eligibility and service credits, which is properly before a Local Board for Decision, pursuant to A.R.S. § 38-847(D).
5. "Claimant" has the meaning ascribed to that term in A.R.S. § 38-842(11).
6. "Decision" means (i) a separate written document setting forth the Local Board's action resolving a Claim; or (ii) any orders issued by a Local Board relating to a Claim, including orders denying a request for Rehearing or further relief. As required by A.R.S. § 38-847(G), a Decision shall contain, at a minimum, (a) the name of the member affected by the Local Board's action; (b) a description of the action taken; and (c) an explanation of the reasons supporting the Local Board's action.
7. "Decision on Rehearing" means a Decision issued by the Local Board after a Rehearing.
8. "Employee" has the meaning ascribed to that term in A.R.S. § 38-842(27).
9. "Employer" has the meaning ascribed to that term in A.R.S. § 38-842(28).
10. "Hearing" means the Local Board's initial public Meeting concerning a Claim, which is conducted in accordance with the Open Meeting Law and these Rules.
11. "Initial Decision" means the first Decision on a Claim issued by the Local Board.
12. "Local Board" means that public body described in A.R.S. § 38-847.
13. "Meeting" is a gathering of a quorum of the Local Board to conduct business and to hold Hearings and/or Rehearings, which is conducted in accordance with the Open Meeting Law and these Rules.
14. "Member" has the meaning ascribed to that term in A.R.S. § 38-842(31).

26. **"Rules"** means these Model Uniform Rules of Local Board Procedure authorized by A.R.S. § 38-847(F).
27. **"Secretary"** means the person so designated and elected pursuant to A.R.S. § 38-847(M), who is charged with keeping a record and preparing agendas, Minutes and Decisions of all Hearings and Rehearings of the Local Board.
28. **"State Agency Local Board"** means any Local Board where the sponsoring Employer is an agency, board, commission, department or other administrative unit of the State of Arizona. An example of a State Agency Local Board is the Department of Public Safety PSPRS Local Board.
29. **"Subcommittee"** means a group of no more than two Local Board members appointed by the Board Chair to undertake Local Board business.

B. Purpose and Scope of Procedures

1. **Board Responsibility.** Pursuant to A.R.S. § 38-847(D), the Local Board is responsible for deciding all questions of eligibility and service credits, and determining the amount, manner and time of payment of any benefits under the Plan. The Board of Trustees cannot pay any benefits under the Plan without the direction and approval of the Local Board.
2. **Scope.** These Rules govern all Claims before the Local Board for Decision, effective for any Claims brought, and any Hearing and Rehearing held, after the effective date of adoption of these Rules by the Local Board.
3. **Conflict.** These Rules are authorized by A.R.S. § 38-847(F) and supplement all authority of the Local Board specified in that statute. Should any of these Rules conflict with any provision of A.R.S. § 38-847 or any other Arizona law, the provisions of Arizona law shall control. These procedures govern State Agency Local Boards as well as Political Subdivision Local Boards. However, State Agency Local Boards may be subject to additional laws as provided by Title 41, Ch. 4, Article 6.
4. **No Legal Advice.** These Rules do not constitute legal advice. Local Boards are encouraged to consult with their independent attorney to resolve questions of law.

C. Composition of the Board and Conduct of Meetings

1. **Composition.** The membership of each Local Board is determined by whether the participating employer is a political subdivision, Indian tribal nation, state agency, non-profit corporation, joint powers authorities or fire district, as set forth in A.R.S. § 38-847(A).
2. **Chair.** The provisions for electing a Chair are found in A.R.S. § 38-847(A). For political subdivisions and Indian tribal nations, the Mayor or Chief Elected Official or a designee shall serve as Chair of their respective Local Boards. For state agencies and nonprofit corporations, the Local Board shall elect a Chair. For fire districts, the chairperson of the fire district governing board or the chairperson's designee shall serve as Chair.
3. **Secretary.** Pursuant to A.R.S. § 38-847(M), the Local Board shall elect a Secretary who may, but need not, be a member of the Local Board.

D. Pre-Membership Physical

1. **Examination.** Pursuant to A.R.S. § 38-859(A)(1), the Local Board shall contract with a physician or clinic to conduct a Pre-Membership Physical of Employees, for the purpose of identifying physical or mental conditions or injuries, which existed or occurred prior to an Employee's date of membership in the Plan. The physician or clinic conducting a Pre-Membership Physical may be the regular employee or contractee of the Employer.
2. **Appointment.** The Employer (or the Employee's department, whether Fire or Police) or the Secretary shall coordinate appointments for the Employee's Pre-Membership Physical.
3. **Report.** The physician or clinic retained to conduct an Employee's Pre-Membership Physical shall provide a written report of the results of the Pre-Membership Physical to the Secretary within 10 days after the examination. The Secretary shall file the report as a permanent record, as required by A.R.S. § 38-859(E).
4. **No Pre-Existing Condition.** If the physician or clinic's report on an Employee with respect to his pre-membership condition concludes that the Employee has no pre-existing condition, the Secretary shall file the report as a permanent record, as required by A.R.S. § 38-859(E).
5. **Finding of Pre-Existing Condition.** If the physician or clinic's report on an Employee with respect to his pre-membership condition concludes that the Employee has a pre-existing condition:
 - a. The Secretary shall notify the Employee that the physician or clinic has reported that the Employee has a pre-existing condition. The Employee shall have 30 days to submit additional documentation or comments to the Secretary before the physician or clinic's report is placed on an agenda for the Local Board's consideration.
 - b. Reports concerning an Employee's pre-existing condition shall be placed on the Meeting agenda for recognition by the Local Board.
 - c. The Secretary shall provide the Local Board with any additional documentation or comments submitted by an Employee regarding a physician or clinic's conclusion that an Employee has a pre-existing condition.
 - d. The Local Board shall review the physician or clinic's report and any additional documentation submitted by the Employee at a Meeting. After review of the relevant documents, the Local Board will take any action the Local Board deems necessary and appropriate.
 - e. The Secretary shall file all reports concerning an Employee's pre-existing condition(s) as a permanent record, as required by A.R.S. § 38-859(E), along with any additional documentation and comments provided by the Employee, and appropriate records of any actions or determinations by the Local Board with respect to the same. In the event a Member whose Pre-Membership Physical revealed a pre-existing condition applies for an accidental, catastrophic, ordinary, or temporary disability pension, all such documentation related to the Member's pre-existing condition will be presented to the Local Board. If the Local Board determines that a Member's disability resulted from a physical or mental condition or injury, which existed or occurred prior to the Member's date of membership in the Plan, the Member shall not qualify for an accidental, catastrophic, ordinary, or temporary disability pension.

E. Initial Decision

letter sent by certified mail that the Local Board has failed to convene a Hearing within ninety (90) days of the filing of a Claim. However, if the relief deemed granted and approved by the Local Board violates the Internal Revenue Code or threatens to jeopardize the Plan's status as a qualified plan under the Internal Revenue Code, no limitation period for the Board of Trustees to seek a Rehearing applies.

6. **Issuance of Decision.** When a Hearing is held within the deadlines set forth in Section E (5) of these Rules, the Secretary shall forward the Decision, Minutes and other necessary communications, as provided in Section C(5)(f)-(h) of these Rules.
7. **Finality of Decision.** Pursuant to A.R.S. § 38-847, any Decision that is not inconsistent with the provisions of the Plan and the Internal Revenue Code shall be final, conclusive and binding on the Claimant and the Plan, unless a timely application for a rehearing is filed as provided in Section H of these Rules, or an appeal is filed. However, the Board of Trustees may not implement and comply with any Decision that does not comply with the Internal Revenue Code or that threatens to jeopardize the Plan's status as a qualified plan under the Internal Revenue Code, and under such circumstances, no limitation period for the Board of Trustees to seek a rehearing of a Decision applies. A final decision may be appealed to the Mohave County Superior Court for the State of Arizona within the periods specified in, and the manner provided by, the Arizona Revised Statutes (see A.R.S. § 12-901 et seq.) and the rules adopted by the Mohave County Superior and Appellate Courts of the State of Arizona.

F. Disability Benefit Applications

1. **Disability Application.** Upon presentation of a properly completed application for any of the disability pensions authorized by law, the Secretary will determine whether the Claimant has provided complete documentation supporting the Claim referenced in the application. If the information is incomplete, the Secretary shall request that the Claimant provide additional documentation and may assist the Claimant in identifying deficiencies or incomplete items in the application. The Secretary shall also obtain from the Employer any documentation contained in workers' compensation records. A confidential packet of medical information on the Claimant shall be prepared for distribution to Local Board members. When the Claimant's application is complete, the Claim shall be placed, as a separate item, on the agenda for a Meeting, pursuant to Section E (5) of these Rules.
2. **Initial Hearing.** At the initial Hearing on a Claim for disability benefits, the Local Board will determine whether the medical and other documentation submitted is sufficient for the Local Board to conclude that the statutory prerequisites are satisfied by the Claimant. If the statutory prerequisites are satisfied, pursuant to A.R.S. § 38-859(A), the Local Board shall direct that a medical board be appointed to conduct an examination of the Claimant and to report to the Local Board the results of that examination. If the statutory prerequisites are not satisfied, the Local Board may deny the Claim based on a lack of evidence, either medical or otherwise, such as the Claimant's continued work status or the Claimant's performance of a reasonable range of duties. In the alternative, the Local Board may continue the Hearing on the matter to a date and time when any additional documentation requested by the Board is available.
3. **Independent Medical Board.** Pursuant to A.R.S. § 38-859(B), medical boards appointed pursuant to A.R.S. § 38-859(A)(2)-(5) shall be composed of a designated physician or a clinic other than a regular employee or contractee of the employer.

- a. In its discretion, the Local Board may require Members receiving accidental or ordinary disability benefits to undergo an annual medical examination to determine whether they are still disabled and therefore, qualified for continued disability benefits.
- b. On an on-going basis, the Secretary will prepare a list of Members receiving accidental and ordinary disability benefits who may be required to undergo an annual medical reevaluation pursuant to Section G(2)(a) of these Rules.
- c. At the direction of the Chair, a Subcommittee of the two elected Members of the Local Board shall review the list of Members prepared pursuant to Section G(2)(b) and report the Subcommittee's recommendations regarding medical reevaluation of such Members to the Local Board.

3. Medical Boards Appointed Pursuant to A.R.S. § 38-859.

- a. The Local Board shall appoint a medical board to examine any Member required to obtain, or selected for, reevaluation pursuant to Sections G (1), (2) of these Rules. If the Member refuses to submit to the medical board reevaluation, the Member's disability shall be considered to have ceased and the Member's disability pension terminated.
- b. A formal report of the medical board on the results of the reevaluations referenced in Section G(3)(a) above shall be submitted to the Local Board. The Local Board shall review any such report at the first scheduled Meeting after receipt of the report, and shall take any action warranted, as permitted by the relevant statutes.

H. Rehearings

1. Application for Rehearing.

- a. A Claimant's application for Rehearing must be filed within sixty (60) days after the Claimant receives notification of the Initial Decision by certified mail, by attending the Meeting at which the Initial Decision is rendered, or by receiving benefits from the Plan pursuant to the Initial Decision, whichever occurs first.
- b. The Board of Trustees's application for Rehearing must be filed within sixty (60) days after the Board of Trustees receives a copy of the Initial Decision by certified mail.

2. Rehearings Granted. The Local Board will conduct a Rehearing of any matter upon proper and timely application by a Claimant or the Board of Trustees, pursuant to A.R.S. Section 38-847(H).

3. Preparation of Preliminary Record. Upon receipt of a proper and timely application for Rehearing, the Secretary shall prepare a packet consisting of all documents and other tangible items of evidence made available to the Local Board with respect to the underlying issues. The Secretary may obtain a written transcript of any previous proceedings of the Local Board in connection with the matter, for inclusion in such packet. The Rehearing packet shall be made available to Local Board members and shall be provided to all Parties to the Rehearing. This packet of materials shall constitute the preliminary record for the Rehearing.

4. Scheduling of Rehearing. When the preliminary record is complete, the Secretary will schedule the Rehearing for the next scheduled Meeting or for such other date and time as may be determined but no later than 90 (ninety) days after receipt of either the Claimant's or the Board of Trustees' application/request for Rehearing. Rehearings are not subject to the time limitations set forth in Section E (5) of these Rules.

5. Local Board Action on Rehearing. At or after the conclusion of the Rehearing, the Local Board may vote to uphold, rescind or modify its Initial Decision.

information furnished by the Employer, Administrator, the Local Board's independent legal counsel or the Plan's actuary.

6. Failure to Appear at Hearing. In the event a Claimant (and the Claimant's counsel, if any) fails to appear at a duly noticed Hearing or Rehearing, in its discretion, the Local Board may enter a Decision by default or vacate the Hearing or Rehearing. If a witness fails to appear at a duly noticed Hearing or Rehearing, in his discretion, the Presiding Officer may exclude the witness' testimony or reschedule the Hearing or Rehearing.
7. Limitation of Issues. All Hearings and Rehearings shall be limited to matters referenced in the Claim and any request for Rehearing filed by any Party.
8. Record of Proceedings. All Hearings and Rehearings shall be recorded by electronic means and at the Local Board's expense. A copy of the recorded Hearing or Rehearing will be provided to the Claimant and all other interested Parties upon request. Parties are responsible for obtaining their own transcription of a recorded Hearing or Rehearing, although a Local Board may provide such a transcription in its discretion. In addition to any electronic recording of the proceedings, the Local Board shall include all relevant written records as part of the official record of the Hearing or Rehearing.
9. Evidence on Claims. The Claimant and Administrator shall be afforded equal time to state their positions.
10. Subpoenas; Depositions. To facilitate the collection and presentation of evidence with respect to any matter before the Local Board, the Presiding Officer may authorize subpoenas and depositions of witnesses.
11. Consultation among Members. The Presiding Officer may consult on the record with the other members of the Local Board. The Local Board may consult in executive session with the Local Board's legal counsel so long as all requirements of the Open Meeting Law are satisfied. The Local Board may also go into executive session for any lawful reason, including the need to preserve the confidentiality of medical information. However, all Decisions of the Local Board shall be made in open, public session of the Local Board.
12. Bifurcation of Issues/Hearing. In connection with any Claim, the Presiding Officer is empowered to bifurcate (i.e., separate into two or more) issues presented to the Local Board for resolution, or set multiple Hearings or Rehearings in a single case.
13. Submission of Evidence. The Claimant must submit to the Secretary within ten (10) working days of the Hearing or Rehearing any documents the Claimant wishes to introduce into the record, including doctor reports and other written evidence. Documents received by the Secretary less than ten (10) working days before a Hearing or Rehearing may cause a delay in the Hearing or Rehearing. Information and documents presented on the date of the Hearing or Rehearing will be reason for the Presiding Officer to call for a motion to continue the Hearing or Rehearing to a later date.
14. Public Participation. The Open Meeting Law governs public participation in Hearings and Rehearings.