

Oral Argument Policy
of
the Commonwealth of Pennsylvania
Public School Employees' Retirement Board

As adopted by
the Board of Trustees
on December 9, 2005

Effective
December 9, 2005

Adopted: December 9, 2005

Date Last Revised: May 23, 2019

Date Last Reviewed By Chief Counsel: January 10, 2019

Public School Employees' Retirement Board Oral Argument Policy

WHEREAS, the Public School Employees' Retirement System and the School Employees' Defined Contribution Plan (collectively referred to as "PSERS") provides pension and other benefits to public school employees in accordance with the Public School Employees' Retirement Code, 24 Pa. C.S. §8101 et seq. ("Retirement Code") and the School Employees' Defined Contribution Plan and Trust; and

WHEREAS, the Public School Employees' Retirement Board ("PSERB") is empowered by the Retirement Code with the exclusive control and management of PSERS; and

WHEREAS, the PSERB conducts quasi-judicial deliberations in formal appeals under the Administrative Agency Law, 2 Pa. C.S. §501 et seq.; and sets the procedures under which member, participant, or third-party disputes with PSERS in benefits administration appeals are considered and resolved; and

WHEREAS, the PSERB desires to establish guidelines regarding oral arguments before the PSERB in benefits administration appeals cases where exceptions are taken to recommendations of the Hearing Examiner;

NOW THEREFORE, the members of the PSERB adopt the following Board Oral Argument Policy.

I. Definitions

A. **Claimant:** An individual who has requested a hearing in a formal benefits administration appeal.

B. **PSERB:** The Public School Employees' Retirement Board.

C. **PSERS:** The Public School Employees' Retirement System and the School Employees' Defined Contribution Plan and Trust.

D. **Hearing Examiner:** A presiding officer duly appointed to hear a formal benefits administration appeal in accordance with 1 Pa. Code §35.185.

E. **Party:** An individual or entity participating in a formal benefits administration appeal.

F. **Retirement Code:** The Public School Employees' Retirement Code, 24 Pa. C.S. §8101 et seq.

G. **School Employees' Defined Contribution Plan and Trust:** The plan documents created by the Board under Section 8402 of the Retirement Code (relating to plan document) that contain the terms and provisions of the School Employees' Defined Contribution Plan.

H. **Secretary of the PSERB:** The duly appointed Secretary of the PSERB as provided in the Retirement Code.

II. General Guidelines

A. If a Party files exceptions to a recommendation of the Hearing Examiner and wishes oral argument before the PSERB, the Party must file the request for oral argument with the exceptions. The right to oral argument shall be discretionary with the PSERB. Where oral argument is granted, the Secretary of the PSERB shall schedule the argument for the next available PSERB meeting.

B. If a Party seeks oral argument in a case in which exceptions have been filed by PSERS to a recommendation of the Hearing Examiner that is in favor of a Claimant, the request for oral argument must be filed with or before the Party's response to PSERS' exceptions. In such case, the Secretary of the PSERB shall grant oral argument and schedule it for the next available PSERB meeting.

C. Oral Argument shall be limited to a maximum of 10 minutes for each Party, unless otherwise directed by the PSERB. The Claimant, as the Party with the burden of proof, shall argue first. If there are more than two Parties to the appeal, the Secretary of the PSERB shall establish the order of argument consistent with who has the burden of proof. No new evidence shall be accepted at the oral argument.

D. At the conclusion of the oral argument, the PSERB shall discuss and decide the case. The PSERB may table the case for further consideration at its next meeting. The PSERB may also elect to discuss all or part of the case in Executive Session in accordance with the Sunshine Act, 65 Pa. C.S. §701 et seq.

E. The PSERB's counsel shall draft a proposed adjudication in accordance with the PSERB's decision. The proposed adjudication shall be presented for PSERB approval at the PSERB meeting next following the PSERB's determination of the case, unless the PSERB agrees to have the proposed adjudication signed by the Chair of the PSERB without further review by the PSERB.