



Ohio Administrative Code

Rule 145-1-11 Appeal of staff membership determination.

Effective: January 1, 2017

- (A) Any affected person may appeal a senior staff membership determination made pursuant to the staff's authority provided in rule 145-1-09 of the Administrative Code to the public employees retirement board as provided in this rule.
- (B) The senior staff membership determination shall be in writing and sent by certified mail, return receipt requested. An appeal shall be submitted in writing and received by the executive director not later than sixty days after the date of the senior staff membership determination. It shall state the senior staff membership determination to be reviewed and the basis for the review.
- (C)
- (1) The retirement board may delegate its authority to hear an appeal to an independent hearing examiner prior to the retirement board making its final decision on the appeal. The hearing may be conducted in person or, based on the agreement of the parties, through written submission.
- (a) The independent hearing examiner must be licensed to practice law in the state of Ohio. The independent hearing examiner shall conduct a hearing or review of the parties' written submissions and issue a report and recommendation to the retirement board.
- (b) If a hearing is conducted, there shall be a transcript of the hearing. At the hearing, parties to the appeal and staff are permitted to submit evidence in the form of witness testimony and any form of documentation. At the hearing, parties to the appeal may be represented by counsel or other representative, and staff may be represented by the office of the attorney general.
- (c) The original report and recommendation shall be sent to the retirement board. Copies of the report and recommendation shall be provided to the parties to the appeal and to staff. Within fifteen days of the date of issuance of the report and recommendation by the hearing examiner, the parties to the appeal and staff may submit written objections to the report and recommendation. The written



objections shall be submitted to the retirement board and shall not exceed fifteen pages in length. Copies of the written objections shall be sent to the parties to the appeal and to staff.

(2) If a written objection is filed under paragraph (C)(1)(c) of this rule, the retirement board may permit the parties to the appeal and staff to make a personal appearance before the retirement board prior to the retirement board's final review of the appeal.

(a) If a personal appearance is permitted, the parties to the appeal shall be notified in writing by certified mail, return receipt requested, of the time and place of such appearance.

(b) A party to the appeal may be represented by counsel or other representative at the retirement board meeting at which the personal appearance is scheduled and staff may be represented by the office of the attorney general.

(c) Each party and staff will be given the opportunity to make final arguments, not to exceed five minutes, to the retirement board, and answer any questions of the retirement board.

(d) No additional testimony or documentation from the parties will be accepted by the retirement board during the personal appearance. The staff shall prepare and submit a summary memorandum.

(3) The record of any appeal shall consist of the information submitted by the parties and staff to the hearing examiner, the report and recommendation, the transcript of the hearing, if applicable, any objections to the report and recommendation and the minutes of any personal appearance.

(4) The retirement board shall review the report and recommendation and any objections to the report and recommendation in determining whether to accept, reject, or modify the report and recommendation and may remand to the hearing examiner for further findings before making its final decision.

(5) The parties to the appeal and their representatives shall be notified in writing by certified mail, return receipt requested, of the retirement board's final decision.

(D) The retirement board's decision on any determination conducted pursuant to this rule shall be



final and determinative and may be summarily applied to all similarly situated employees of the same employer.

(E) The executive director or the director's designee shall notify the parties to the appeal in writing of any notice required by this rule.