

**BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

**STATEMENT OF POLICY & PROCEDURES FOR
FULL HEARINGS BEFORE THE BOARD**

This document is effective immediately upon adoption, and is adopted pursuant to California Government Code sections 11517 and 20120, and California Constitution, article XVI, section 17.

I. PURPOSE

This policy establishes procedures for conducting full hearings before the Board of Administration (Board) where the Board has elected to suspend action on a proposed decision of an Administrative Law Judge (ALJ) so that it can evaluate the entire record itself and hear the parties argue the merits of the case on the record.

II. OBJECTIVE

The objectives of this policy are to:

- A. Establish consistent procedures for conducting full hearings before the Board;
and
- B. To provide advance notice of those procedures to the parties involved.

III. POLICY & PROCEDURES

A. Applicability:

This policy applies to full hearings before the Board where the Board has declined to adopt the Proposed Decision of an Administrative Law Judge (ALJ) but rather has determined to evaluate the entire Administrative Record itself, and hear the parties argue the merits of the case on the record. Pursuant to Government Code section 11517, subsection (c)(2)(E), the Board has the authority to decide such cases upon the record, "with or without taking additional evidence." (See Section III.E below.)

B. Procedure for Full Hearings Before the Board:

1. Board President announces agenda item for hearing.
2. Parties seat themselves at presentation table.
3. Parties introduce themselves.
4. Board President continues with opening remarks/procedures.
5. Independent Board Counsel briefly summarizes the case.
6. Board President rules on any claim of newly discovered evidence.
7. CalPERS counsel presents CalPERS staff's position and supporting arguments. This presentation shall not normally exceed 10 minutes.

8. Respondent or respondent's counsel presents respondent's position. This presentation shall not normally exceed 10 minutes.
9. If more than one party shares the position of CalPERS staff or the respondent, these parties shall split the time allocated to CalPERS staff or the respondent. The total time for each position shall be allocated on a pro rata basis among all the parties presenting argument for that position unless those parties agree among themselves to allocate their time differently.
10. Upon conclusion of the last presentation of respondent's position, there will be a maximum of three minutes to offer rebuttal argument for the staff and the respondent, in the same order as the original presentations. If there is more than one party who shares the same position, the three minutes will be allocated on a pro rata basis among them, unless those parties agree among themselves to allocate their time differently.
11. Upon conclusion of arguments, Board Members may question the parties or their counsel.
12. The Board President may, in her or his discretion, recess the hearing for the purpose of holding a closed session to consider the facts and legal arguments presented, and to deliberate. The closed session will be attended by Board members and, if requested by the Board President, the Board's Independent Counsel, only. Following its deliberations in closed session, the Board shall reconvene in open session to decide the matter before it. Depending on the Board's decision, the Board President may direct the Board's Independent Counsel and/or one or more of the parties to prepare a formal decision for consideration at the next Board meeting.

C. Requests for Exceptions to Time Limitations

Upon written request made at least five days before the hearing, the Board President may, in her or his discretion, increase the time limitations on the parties' presentations. Any such request must be filed via email or fax no later than five days prior to the hearing with Board Secretary, California Public Employees' Retirement System, Email: board@calpers.ca.gov; Fax: (916) 795-3972.

The request must specify the amount of time requested; be supported by a clear, written justification of the need for additional time; and be served concurrently on the other party(ies). All parties will be notified no later than the commencement of the hearing whether the request has been granted. If granted, the total time designated for the parties who share the opposing position will also automatically be extended so that each position has the same total amount of time for oral presentation, allocated among the parties as provided in these policies and procedures.

D. Scope of Review:

The scope of the Board's review in full hearings will normally be limited to the Administrative Record of the hearing before the ALJ as it stands. In rare

circumstances, however, the interest of achieving a just result may require the consideration of newly discovered documentary evidence which could not, with reasonable diligence, have been discovered and produced at the hearing, and which is therefore not part of the Administrative Record.

E. Requests for Introduction of Evidence Which is not Contained in the Administrative Record:

1. This policy applies only to documentary evidence. Under no circumstances will the Board accept new witness testimony or demonstrative evidence of any kind at a full hearing.
2. A party who wishes to introduce evidence before the Board which is not contained in the Administrative Record must submit a written request to that effect no later than the due date for written arguments. Such a request must be served on all parties and filed, by mail and email or fax, with:

Board Secretary
California Public Employees' Retirement System
Post Office Box 942701
Sacramento, CA 94229-2701
Email: board@calpers.ca.gov
Fax: (916) 795-3972

3. All requests for introduction of evidence not included in the Administrative Record must be accompanied by a complete and legible copy of any documentary evidence to be offered. In addition, the request must:
 - a) Show good cause why the evidence could not, with reasonable diligence, have been discovered and produced at the hearing;
 - b) Show the relevance of the evidence offered; and
 - c) Show that the evidence is otherwise admissible under the evidentiary rules of the Administrative Procedure Act.
4. After reviewing the written request and oral argument, if any, the Board President may, in her or his discretion, decide to admit the evidence at the hearing.

IV. RESPONSIBILITIES

Except as otherwise specified within this document, CalPERS' Chief Executive Officer is responsible for implementing these policies and procedures. The Chief Executive Officer may delegate responsibilities to subordinate staff as may be necessary.