

IMPORTANT INFORMATION REGARDING APPEALS TO THE STATE EMPLOYEES' RETIREMENT BOARD

If your request has been denied and you disagree with the decision, you may file an administrative appeal with the State Employees' Retirement Board ("Retirement Board"). You are encouraged to consult an attorney for legal advice and representation in any appeal. You may represent yourself before the Retirement Board, however, you may not be represented by another person unless that person is an attorney admitted to the Bar of the Supreme Court of Pennsylvania. For additional information on pursuing an appeal, please read this brochure carefully.

FILING A LETTER OF APPEAL

The first step in your appeal will be to file a Letter of Appeal with the Retirement Board. **The Letter of Appeal must be received by the Retirement Board's Docket Coordinator within thirty days of the date of the letter denying your request.** You may submit your Letter of Appeal by mail, fax, or hand delivery. An appeal submitted by email or telephone will not be accepted and cannot extend the time period for filing a Letter of Appeal. **If you do not file a Letter of Appeal within thirty days of the date of the denial letter, you will permanently lose your right to appeal the decision.**

NOTE: Letters of Appeal are considered to be filed when they are ACTUALLY RECEIVED by the Retirement Board's Docket Coordinator at the address below. The date of the postmark DOES NOT determine the date of filing.

The Letter of Appeal should include the following information, set forth in separate numbered paragraphs:

- Your full legal name, your daytime telephone number, and your evening telephone number.
- The name and contact information for the person who can discuss your appeal with the attorney representing SERS and receive notices and correspondence about the appeal.
- A description of what you stand to gain or lose as a result of the appeal.
- A statement of whether you are bringing the appeal on your own behalf as an individual or in a representative capacity such as a guardian or executor.



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Letter of Appeal information continued:

- A complete statement of the facts that form the basis of your appeal. Each fact should be set forth in a separate numbered paragraph.
- A statement of what you want the Retirement Board to do (for example, “I would like the Retirement Board to reverse the Appeals Committee’s decision and grant my request to purchase service credit for my military service.”)
- A complete statement of the legal principles on which you are relying. If your argument is based on particular court cases or provisions of the State Employees’ Retirement Code you should identify the cases or statutory provisions and provide citations to each of them.

Send your Letter of Appeal to:
State Employees’ Retirement Board
30 North Third Street, Suite 150
Harrisburg, PA 17101-1716

ATTENTION: Docket Coordinator

Submissions to any other address will not be recognized as being filed.

Be sure to attach any documents that relate to your claim. Please label each document as an exhibit, in sequential order (Exhibit 1, Exhibit 2, etc.). If your appeal does not state a sufficient factual or legal basis for the decision you seek, the Retirement Board may dismiss or deny your appeal without a hearing.

When the Retirement Board receives your appeal, it is taking a fresh look at the facts

and law surrounding your request. Filing an appeal does not mean that the Retirement Board will automatically look at all of the material that is already in your SERS file or earlier documents related to your claim. If you think that material from your SERS file or other documents are important to the resolution of your claim, you should attach them to your Letter of Appeal as exhibits.

THE ADMINISTRATIVE HEARING

After you file your Letter of Appeal, SERS will file an Answer which responds to the facts set forth in the Letter of Appeal. You do not need to respond to the Answer. SERS also may file a motion to have the Retirement Board dismiss your claim if SERS believes you have not stated enough facts or a sufficient legal basis to support your claim. If SERS files this sort of motion, you have ten days from the date the motion is filed to provide the Retirement Board with a written response explaining why your appeal should not be dismissed.

Once the Answer is filed, an administrative hearing will be scheduled in most cases. The administrative hearing usually takes place a few months after the Letter of Appeal and Answer are filed. **All hearings take place at SERS’ central office in Harrisburg.**

If a hearing is held, it will be conducted by a hearing officer. The hearing officer is an attorney appointed by the Retirement Board to preside over the hearing. The purpose of the hearing is to gather all the facts relating to the case. The hearing officer has no special or personal interest in the outcome of the appeal.

The hearing is not a “round table” discussion. Your testimony and evidence must be limited to the issues before the hearing officer. Both you and SERS have the right to present witnesses and evidence such as documents, records, or other information.

To prepare for the hearing, please be aware that:

- It is important that you organize the facts and circumstances relating to your appeal. If you intend to introduce documents or other exhibits, you should mark them as exhibits and make sure you have copies for SERS’ attorney, the hearing officer, and any other parties that are participating in the case. You have the burden to provide sufficient evidence to support your request for relief. If you do not provide evidence in support of your claim, the appeal may be dismissed.
- If you need assistance due to a disability or other condition, please contact SERS’ Docket Coordinator as soon as possible so that arrangements can be made.
- All witnesses will be required to testify under oath. Each party has the right to cross-examine the other party’s witnesses.
- All hearings are recorded by a court reporter and written transcripts will be produced. **You must make arrangements with the court reporter to purchase a copy of the transcript at your expense if you want a copy for yourself.** You can make arrangements to view the transcript at SERS’ main office in Harrisburg, but SERS is not permitted to make copies of the transcript.
- It is your responsibility to notify any witnesses you wish to have testify or bring documents of the date, time, and place of the hearing and arrange for them to be present. If a witness can testify only as to what he or she was told by someone else, such testimony alone cannot provide the only basis for the ultimate decision in an appeal.
- If any of your witnesses refuse to appear or provide documentary evidence, you may request that the hearing officer issue subpoenas to be present or produce documentation. Subpoenas can be opposed and sometimes take time to be acted on, so they should be requested as far in advance of the hearing as possible.
- In the event you need to postpone the hearing, you should request a continuance from the hearing officer as soon as possible, stating your reasons for making the request. Before contacting the hearing officer, you should first contact the attorneys representing SERS and any other parties participating in the hearing to determine if they will oppose your request.

AFTER THE HEARING

At the conclusion of the hearing, the hearing officer will outline a schedule for the submission of written briefs from the parties. The briefs are documents filed with the hearing officer that set forth proposed findings of fact, proposed conclusions of law, and argument in support of the respective parties' positions. In your brief, you should set forth your legal arguments in favor of your position together with a discussion of the facts and legal principles that support your argument. **Usually, the hearing officer will send you a letter informing you that he or she has received the transcript and the thirty day period has begun.** SERS has thirty days to submit its brief following receipt of yours. Within twenty days of the date SERS submits its brief, you may submit a reply brief addressing the issues raised in SERS' brief if you think it is necessary.

Should you need an extension of the filing deadline for your brief, you may request one from the hearing officer. Before contacting the hearing officer, you should first contact the attorneys representing SERS and any other parties participating in the hearing to determine if they will oppose your request.

After the briefs are filed, the hearing officer will consider the evidence presented at the hearing and the briefs submitted by the parties. Based on this record, he or she will

draft an Opinion and Recommendation for the Retirement Board's consideration, which contains fact findings, conclusions of law, a discussion supporting his or her recommendation, and a recommendation to the Retirement Board as to the resolution of the claim. The Opinion and Recommendation is not the final decision on your claim. It is a summary and analysis for the Retirement Board to use in resolving your claim. The Opinion and Recommendation will usually be issued within 120 days of the date the final brief is filed.

Once the Opinion and Recommendation is issued, each party has thirty days to submit written exceptions to the portions of the Opinion and Recommendation with which he or she takes issue. Your exceptions should state which portions of the Opinion and Recommendation you disagree with and the reasons why you disagree. **Failure to file exceptions within the allotted time period to items in the hearing officer's Opinion and Recommendation with which you disagree will constitute a waiver of any objections you have to those portions of the Opinion and Recommendation.** Parties have twenty days to file briefs opposing the other party's exceptions.

After the exceptions and briefs opposing exceptions (if any) are filed, the entire record is analyzed by the Retirement Board, in order to prepare an adjudication and order. **The adjudication and order represents the Retirement Board's final decision.** The Retirement Board's adjudication and order usually will not be issued until several months after the record is completed.

NOTE: Information in this brochure is provided to help you understand the administrative appeal process. It is not intended as legal advice and does not constitute a complete statement of the law. Although this document presents an overview of the appeals process, it is not a complete statement of the law applicable to appeals. In the event this document conflicts with the applicable law, the law will control.