§17106-A. Use of hearing officers

The board shall contract with qualified attorneys to act as hearing officers to implement the provisions of this chapter. Hearing officers are subject to the provisions of this section. Hearing officers are not employees of the board but independent contractors who serve as neutral and independent decision makers. [PL 2021, c. 277, §16 (AMD); PL 2021, c. 277, §45 (AFF).]

1. Independent decision makers. All hearing officers are independent decision makers and are authorized to make recommended final decisions in regard to matters that come before them, consistent with applicable statutes and rules. A decision of the hearing officer must be based upon the record as a whole. The board shall accept the recommended decision of the hearing officer unless the recommended decision is not supported by the record as a whole, the retirement system is advised by the Attorney General that the hearing officer has made an error of law or the decision exceeds the authority or jurisdiction conferred upon the hearing officer. A decision of the board upon a recommended decision of the hearing officer constitutes final agency action. The board shall retain its decision-making authority in all retirement system policy areas.
[PL 2009, c. 322, §7 (NEW).]

2. No direct or indirect influence. A party to the appeal, including the appellant, the board, the chief executive officer or the staff of the board may not exert direct or indirect influence on a hearing officer with regard to decisions of the hearing officer or the decision-making process.
[PL 2009, c. 322, §7 (NEW); PL 2021, c. 548, §45 (REV).]

3. Decision-making process. In the course of the decision-making process, hearing officers may accept, reject or determine the amount of weight to be given any information offered into evidence, including, but not limited to, medical evidence submitted by any of the parties to the appeal.
[PL 2009, c. 322, §7 (NEW).]

4. Discussion of issues before the hearing officers. All parties to an appeal, including the appellant, the board, the chief executive officer and the retirement system staff are prohibited from ex parte communication with the hearing officer. All parties, including the appellant, the board, the chief executive officer and the retirement system staff are prohibited from initiating or engaging in any discussion with a hearing officer regarding the substance of any pending case without first making all parties aware of the proposed contact and without also giving all parties the opportunity to participate in any communication.
[PL 2009, c. 322, §7 (NEW); PL 2021, c. 548, §45 (REV).]

5. Investigation. The joint standing committee of the Legislature having jurisdiction over public employee retirement matters shall monitor the compliance of the retirement system and all involved parties with regard to the use of hearing officers and the independence of hearing officers in the decision-making process. The joint standing committee of the Legislature having jurisdiction over public employee retirement matters may request the Attorney General to conduct an investigation if a complaint is made by a hearing officer or any participating party regarding the independence of the hearing process.
[PL 2017, c. 88, §17 (AMD).]

6. Engagement and termination. The board shall contract with only qualified hearing officers. A contract with a hearing officer may be terminated for misconduct. Retaliatory action of any kind, including reprimand or termination, may not be taken against a hearing officer on the basis of that hearing officer's having issued decisions contrary to the decision of the chief executive officer. In the event of termination, the retirement system shall set forth in writing the basis for the termination, the propriety of which may then be considered by the joint standing committee of the Legislature having jurisdiction over public employee retirement matters pursuant to subsection 5.
[PL 2021, c. 277, §17 (AMD); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

SECTION HISTORY

PL 2009, c. 322, §7 (NEW). PL 2017, c. 88, §§17, 18 (AMD). PL 2021, c. 277, §§16, 17 (AMD). PL 2021, c. 277, §45 (AFF). PL 2021, c. 548, §45 (REV).

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