

## Guide to the Administrative Appeals Process

A general overview of the New Hampshire Retirement System's  
Administrative decision and appeals process

A publication of the New Hampshire Retirement System

[www.nhrs.org](http://www.nhrs.org)

The information in this handbook is intended to give you a general understanding of the New Hampshire Retirement System's administrative appeals process. The contents do not create the basis of any rights between the New Hampshire Retirement System (NHRS) and any party, nor does this handbook provide all of the detail of the laws and rules that govern NHRS membership and related rights. Before making a decision relating to your NHRS rights and benefits, you should review current law and consult with NHRS staff and your own legal and financial advisors. The New Hampshire Retirement System is governed by New Hampshire RSA 100-A, rules, regulations, and Federal laws including the Internal Revenue Code. NHRS also implements policies adopted by the Board of Trustees. These laws, rules, regulations, and policies are subject to change. Although the goal of this guide is to provide information that is current, correct, and complete, NHRS does not make any representation or warranty as to the current applicability, accuracy, or completeness of any information provided. The information herein is intended to provide general information only, and should not be construed or relied upon as a legal opinion or as legal advice. In the event of any conflict between the information herein and the laws, rules, and regulations which govern NHRS, the laws, rules, and regulations shall prevail.

This booklet is designed to assist you in understanding the New Hampshire Retirement System (“NHRS” or “the Retirement System”) administrative appeals process. The information is not intended to substitute for legal advice or the assistance of an attorney.

You are responsible for any expenses associated with hiring an attorney and any costs associated with witnesses whose attendance you may require.

Chapter Ret 200 of the rules of the Retirement System governs the administrative appeals process. You will find the rules online at:

[http://gencourt.state.nh.us/rules/state\\_agencies/ret.html](http://gencourt.state.nh.us/rules/state_agencies/ret.html)

If you do not have access to the Internet, you may request a paper copy by contacting the NHRS by telephone or in writing.

If you have questions about the Retirement System appeals process, please contact:

New Hampshire Retirement System  
54 Regional Drive  
Concord, NH 03301

Telephone: (603) 410-3500  
Toll Free: 1-877-600-0158  
Fax: (603) 410-3501  
Email: [info@nhrs.org](mailto:info@nhrs.org)

### **Hours of Operation**

Monday - Friday: 8:00AM - 4:00PM

## **GENERAL INFORMATION**

### **Administrative Decisions**

Typically, if the NHRS makes a decision impacting your eligibility for, or the amount of, an NHRS benefit, it will notify you in writing. The notice will give you the opportunity to appeal the decision. You must file notice of your appeal within 45 days of the date on the Retirement System's decision letter.

Although there is no requirement that you be represented or advised by an attorney, the Retirement System encourages you to seek the advice of an attorney at any stage of your appeal.

### **Appeals**

#### **Who can appeal?**

A Retirement System member, employer, or beneficiary whose legal rights, duties, or privileges are adversely affected by an administrative decision can appeal the decision to an NHRS Hearings Examiner who will hear the case impartially and make a recommendation to the Board of Trustees. A person may represent himself or herself or be represented by anyone of his or her choice; attorney or lay person.

#### **How do I appeal?**

To begin the appeal process, you must send a written petition to the Hearings Examiner. The petition does not have to follow a specific form but it must contain the following information:

- Your name, address, and a daytime telephone number where we can reach you if we have any questions;
- If your appeal concerns another NHRS member or beneficiary, his or her name and address;
- The name, address, and telephone number of the member's employer;
- The name, address, and telephone number of the person representing you, if you are not representing yourself;
- The specific Retirement System decision being appealed;

- A complete statement of the relevant facts;
- A statement of the relief which you wish the Board of Trustees to grant;
- A statement of the legal authority which supports your request for relief, if you know it; and
- A statement certifying that the petition has been mailed to all parties, if there are more parties than you and the Retirement System<sup>1</sup>.

Mail your appeal petition to:

Administrative Hearings  
New Hampshire Retirement System  
54 Regional Drive  
Concord, NH 03301-8509

You must file your appeal petition within 45 days from the date of the letter telling you about its decision. If you mail your petition it must be postmarked within 45 days from the date of the NHRS letter. If you deliver your petition in person, the Retirement System must receive it within the 45 day period and before 4:00 P.M. when it closes for the day.

### **What are my responsibilities during an appeal?**

It is your responsibility to participate in conferences and hearings in your appeal. If a scheduling conflict arises, you must notify the Hearings Examiner to request a change of date.

If you fail to appear at a hearing, the Hearings Examiner will determine that you have defaulted on your appeal. You will be sent a notice of default. If within 10 days of the date of the notice of default you submit information that demonstrates, in the judgment of the Hearings Examiner, that you did not appear because of an accident, mistake, or misfortune and not because of neglect, your appeal will be reinstated. If you do not respond, the Hearings Examiner will issue a default order against you deciding the issues on appeal.

### **Who is involved?**

---

<sup>1</sup> Source: Ret 203.01

Petitioner. You, as the person bringing the appeal and/or your representative.

Board of Trustees: A thirteen member group that makes the final decision on all appeals.

Staff Counsel: An attorney who represents the NHRS Staff, explains their decision to the Hearings Examiner, and questions witnesses.

Hearings Examiner: A lawyer employed by the Retirement System to conduct appeal proceedings. The Hearings Examiner is a person with appropriate experience whom the Board has determined to be impartial, unbiased, and able to conduct a fair, efficient, and effective appeal process.

NHRS Staff: At least one knowledgeable employee of the NHRS who may be present on behalf of the Retirement System in an appeal hearing and may serve as a witness, if necessary.

### **The *Ex Parte* Communication Rule**

Because the Hearings Examiner must listen impartially to the evidence presented in your appeal, the Hearings Examiner can only consider facts and arguments when all sides have the opportunity to be present. The Hearings Examiner may not speak with one party about the substance of a case unless all parties are present. If you write to the Hearings Examiner, you must also, at the same time, send a copy of your correspondence to the person representing the other party.

### **Evidence**

The Hearings Examiner is responsible for issuing a fair and impartial recommendation to the Board of Trustees. The Hearings Examiner reviews the basis for the appeal, the relevant evidence in the member's file, and any additional evidence introduced during the appeal process.

Relevant evidence is information which tends to prove or disprove an issue and is the kind of information on which a reasonable person would rely. The Hearings Examiner determines the weight to be given the evidence and may exclude information which is irrelevant or repetitious. When all parties stipulate, or agree, to a fact, it does not have to be proved with other evidence.

Documents contained in the appeal record are public records to the extent required by New Hampshire law.

### **STEPS IN THE APPEAL PROCESS**

1. The Retirement System issues a written decision.
2. The person aggrieved by the decision files an appeal petition with Administrative Hearings within 45 days of the date on the Retirement System's decision letter.
3. Within 90 days after receiving an appeal, the Hearings Examiner sends a letter to begin the hearing process by scheduling either a hearing or a prehearing conference, depending on the complexity of the issue.
4. If you are represented by an attorney, the Retirement System assigns counsel for its staff and the Hearings Examiner will schedule a prehearing conference to decide any procedural issues before scheduling the hearing. If you are not represented by an attorney, the Hearings Examiner will schedule a hearing and notify you of the date. You may also request that a prehearing conference be scheduled before the hearing date.
5. The Hearings Examiner holds a hearing on the issue and accepts relevant evidence and testimony.
6. Within 60 days after the close of the hearing, the Hearings Examiner writes a recommendation which is presented to the Board of Trustees at the following meeting.
7. The Board reviews the recommendation and can accept it, reject it, modify it or send it back to the Hearings Examiner for another hearing on a legal or factual issue if it determines that some issues have not been fully addressed.
8. After the Board of Trustees makes its decision, the Hearings Examiner sends a copy of it to the Petitioner or his or her attorney and to Staff Counsel.
9. If a party believes that the Board's decision contains errors of fact or law with respect to any matter covered in the original proceeding, the party can request reconsideration in writing within 30 days of the decision. The request must identify the errors the party is claiming with specific references to the record or the law. A request for reconsideration

suspends the Board's original decision until the Board acts on the request.

10. After the Board acts on the request for reconsideration, a Petitioner who still feels that the decision is in error can appeal to the New Hampshire Supreme Court.