

**Corrections Officer Retirement Plan**  
**Model Uniform Rules of Local Board Procedure**  
Created Pursuant to A.R.S. § 38-893(F)

**A. Definitions**

1. “A.R.S.” means Arizona Revised Statutes.
2. “Administrator” means the Administrator of the Plan (including any persons authorized by the Administrator to act for the Administrator) acting for the benefit of the Fund Manager as more particularly described in A.R.S. § 38-848(L).
3. “Claim” means any request for relief under the Plan, including a request for any type of pension or credited service, that is properly before a Local Board for Decision. Among other things, a Claim may include a request for temporary, normal, ordinary, survivor, accidental or catastrophic retirement, or Plan benefits (or credited service) of any kind.
4. “Claimant” means a person who submits a Claim under the Plan, and includes (a) active, inactive or retired members of the Plan; (b) persons receiving survivor benefits under the Plan; and (c) persons who claim to be eligible for membership in the Plan.
5. “Contested Claim” means a Claim which the Employer or Administrator, or both, have opposed prior to occurrence of any Hearing on such Claim.
6. “Decision” means (i) the Local Board’s written and separate findings of fact, conclusions of law and orders on any Claim before the Local Board and which resolves the legal rights or privileges of a Claimant under the Plan, (ii) the Local Board’s written and separate findings of fact, conclusions of law and orders on any Claim after Rehearing, or (iii) any orders issued by a Local Board and relating to a Claim, including orders denying a request for Rehearing or further relief.
7. “Employer” has the meaning ascribed to that term in A.R.S. § 38-881(15).
8. “Fund Manager” means the trustee of the Plan as more particularly described in A.R.S. § 38-848.
9. “Hearing” means a public meeting concerning a Claim before the Local Board which is conducted in accordance with the Open Meeting Law and during which the Claimant and other affected persons, such as the Administrator, Employer or the Administrator, may present arguments and evidence to support or contest the Claim.

10. “Local Board” means that body described in A.R.S. § 38-893.
11. “Notice” means a written Notice of Hearing (or Rehearing, as applicable), which includes (i) a statement of the time, place and nature of the Hearing (or Rehearing, as applicable), (ii) a statement of the legal authority and jurisdiction under which the Local Board will be conducting the Hearing (or Rehearing, as applicable), (iii) a reference to the particular section(s) of the Arizona Revised Statutes (and/or any other applicable rules) involved in the particular matter presented for Decision, and (iv) a short and plain statement of the matters asserted by the Claimant (or issues to be considered) at the Hearing or Rehearing (as applicable) and, with respect to any Contested Claim, that the Claimant is entitled to request a pre-Hearing settlement conference.
12. “Open Meeting Law” is that body of laws described in Title 38, Ch. 3, Article 3.1 of the Arizona Revised Statutes, which requires public bodies like the Local Board to hold its meetings, and conduct its activities, in public except in those limited circumstances described in A.R.S. § 38-431.03.
13. “Plan” means the Corrections Officer Retirement Plan, as described in A.R.S. § 38-881 *et seq.*
14. “Political Subdivision Local Board” means any Local Board that is not a State Agency Local Board. Examples of Political Subdivision Local Boards are Local Boards whose sponsoring Employer is a municipality, county, or tribe.
15. “Presiding Officer” means the Chair of the Local Board or his/her designee, who presides over any Hearings and Rehearings or other proceedings on a Claim leading to Decisions of the Local Board.
16. “Rehearing” means a proceeding to reconsider and/or reverse or modify any initial Decision on a Claim.
17. “Secretary” means the person so designated and described in A.R.S. § 38-893(M) charged with keeping a record and preparing minutes of all meetings of the Local Board and forwarding such minutes (and any Decision) to the Administrator in a timely fashion.
18. “State Agency Local Board” means any Local Board whose sponsoring Employer is an agency, board, commission, department or other administrative unit of the State of Arizona. An example of a State Agency Local Board is the Department of Corrections Local Board.

## **B. Purpose and Scope of Procedures**

These Model Uniform Rules of Local Board Procedure govern all matters coming before a Local Board for Decision, including without limitation, all matters authorized by A.R.S.

§ 38-893(D). Such matters may include any Claims for benefits payable by the Plan, Claims for credited service under the Plan, Claims regarding eligibility for membership in the Plan, and any other Claims against the Plan within the jurisdiction of a Local Board. Unless a Claimant and all other interested parties agree otherwise, these procedures are effective for any Claims brought, and any Hearing and Rehearing held, after the effective date of adoption of these procedures by the Local Board.

These Model Uniform Rules of Local Board Procedure can be adopted by Local Boards as authorized by A.R.S. § 38-893(F), and supplement all authority of the Local Board specified in that provision. Should any of these procedures conflict with any provision of A.R.S. § 38-893, the provisions of the statute shall control. Unless otherwise specified, these procedures govern State Agency Local Boards as well as Political Subdivision Local Boards, although the former must comply with the additional requirements contained in Section E below.

**C. Initial Decisions of the Local Board**

1. **Board Responsibility.** The Local Board is responsible for deciding all questions of eligibility and credited service under the Plan, and for making all Decisions on any Claim regarding the amount, manner and time of payment of any benefits under the Plan. Among other things, the Local Board is also responsible for communicating to the Administrator the Local Board's Decisions and forwarding to the Administrator minutes of the Local Board's meetings. As noted in Section C(23) below, Decisions of the Local Board shall be mailed to the Administrator by certified mail no later than twenty (20) days after such Decisions are rendered by the Local Board. As noted in Section C(24) below, all minutes of every meeting of the Local Board shall be mailed to the Administrator by regular U.S. mail no later than forty-five (45) days following each meeting.
  
2. **Presenting Claims.** A Claimant (or a Claimant's attorney) may request that the Local Board make a Decision on a Claim by sending a written application for same to:

Ms./Mr. \_\_\_\_\_  
Secretary, \_\_\_\_ Local Board  
\_\_\_\_\_  
\_\_\_\_\_

A Claim may be an application for a pension or other benefits under the Plan.

4. **Content of Claims.** To be effective, all Claims shall set forth: (i) the name and address of the Claimant; (ii) the name and address of the Claimant's attorney, if applicable; (iii) a brief statement of the facts forming the basis of the Claim, including any evidence relevant to the Local Board's Decision on the Claim; and (iv) the precise relief sought by the Claimant from the Local Board. On the same day the Claimant files a Claim with the Local Board, the Claimant shall send by

U.S. mail a copy of such Claim to any persons potentially interested in such Claim, including the Administrator and Employer.

5. **Uncontested Claim and Summary Approval Thereof.** A Local Board may authorize its Secretary to identify matters coming before the Board for Decision as routine, uncontested matters, and to present those matters to the Local Board for summary approval in the event the Employer, Administrator or any member of the Local Board does not first object to the Claim within forty-five (45) days of the Claim's submission to the Local Board. If the Employer, Administrator or any member of the Local Board objects to summary approval of a Claim, the Claim shall be considered a Contested Claim and its resolution shall be governed by all Sections below pertinent to Contested Claims. If the Employer, Administrator or any member of the Local Board does not object to summary approval of a Claim within forty-five (45) days of the Claim's submission to the Local Board, the Local Board may convene a Hearing and issue a Decision approving said Claim, and said Decision shall be considered final and binding unless any person interested in the Decision (including the Employer and Administrator) timely (a) requests a Rehearing of said Decision or (b) appeals same to the Superior Court as otherwise provided in these procedures. The Administrator's election, for any reason, to not oppose a Claim prior to entry of a Decision on same shall not preclude the Administrator from timely requesting a Rehearing on the Claim or filing an appeal of the Decision with the Superior Court.
6. **Deadline for Hearing Contested Claim.** Unless the parties otherwise agree, the Local Board shall schedule a Hearing on a Contested Claim within sixty (60) days of its receipt of the Claim.<sup>1</sup>
7. **Notice and Form of Hearing.** The Local Board will prepare and send by certified mail a Notice of Hearing (or Rehearing, if applicable) on any Claim to the Claimant and/or the Claimant's attorney at least thirty (30) days in advance of the Hearing (or Rehearing, if applicable). Hearings (or any Rehearing, if applicable) may be conducted over the course of more than one Local Board meeting, and may be continued in the event the Local Board orders medical or other examinations or additional time is needed by the parties (or the Local Board) to gather or hear evidence. Hearings (or a Rehearing, if applicable) may be expedited upon motion of any party upon a showing of extraordinary circumstances or irreparable harm.
8. **Pre-Hearing Conference on Contested Claim.** In connection with any Contested Claim, the Local Board may hold pre-Hearing conferences to clarify or limit procedural, legal or factual issues, consider amendments to pleadings or filed documents, identify and exchange witness lists and exhibits to be used at the Hearing (or Rehearing, as applicable), obtain stipulations or rulings on testimony, exhibits, facts or law, schedule deadlines, Hearing (or Rehearing) dates and

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<sup>1</sup> The 60 day rule is imposed by A.R.S. § 41-1092.05.

locations, and to allow the parties the opportunity to discuss settlement. Pre-Hearing (or Rehearing) conferences may be held telephonically or in person, and the Local Board may issue orders outlining the issues to be discussed at any pre-Hearing (or Rehearing) conference on a Contested Claim. The Local Board may also record any agreement reached by the parties during a pre-Hearing (or Rehearing) conference by electronic or mechanical means or in a written Decision or order.

9. **Informal Settlement Conference.** Any party to a Contested Claim may request by motion that the Local Board conduct an informal settlement conference no later than twenty (20) days before the date scheduled for the Hearing (or Rehearing, as applicable). A party's motion for an informal settlement conference does not stop any time limit(s) for holding Hearings. In the event an informal settlement conference is scheduled in connection with any Contested Claim, the Local Board Secretary shall be present and the parties shall be advised that any statements made for purposes of settlement may not be used for any purpose at the Hearing (or Rehearing, if applicable) of the Contested Claim.
10. **Limitation of Issues and Informal Disposition.** All Hearings (or any Rehearing, if applicable) on any Contested Claim shall be limited to matters referenced in the Claimant's Claim and any written response thereto submitted by any other interested parties, including the Employer or the Administrator. Unless otherwise precluded by law, informal disposition of any matter brought before the Local Board on a Contested Claim may be made by stipulation, agreed settlement, consent order or default.
11. **Record of Proceedings.** All Hearings (or any Rehearing, if applicable) before the Local Board shall be recorded by electronic means and at the Local Board's expense. Any party requesting transcription of any Hearing (or Rehearing) shall pay the cost thereof to the Local Board. A copy of the recorded Hearing (or any Rehearing, if applicable) will be provided to the Claimant and all other interested parties upon request. In addition to any electronic recording of the proceedings, the Local Board shall include as part of the official record of the Hearing (or any Rehearing, if applicable) on any Contested Claim all written memoranda submitted or issued, including copies of the Claim or other request for relief, motions and rulings of the Local Board, all evidence received or considered by the Local Board, a statement of all matters officially noticed by the Local Board, all offers of proof, objections thereto and rulings thereon, all proposed findings and exceptions, the Local Board's Decision, and all unprivileged memoranda or data submitted by any party and considered by the Local Board.
12. **Argument and Evidence on Contested Claims.** The Claimant, Employer, Administrator, and/or any other opposing party shall be afforded equal time to state its position at the Hearing (or Rehearing, if applicable) on any Contested Claim. The Presiding Officer at the Hearing (or any Rehearing, if applicable) on a Contested Claim shall rule on all evidentiary or procedural objections. At any

Hearing (or Rehearing, if applicable) of a Contested Claim, each party to the proceeding is entitled to make an opening statement. The party with the burden of proof shall begin the presentation of evidence on a Contested Claim, unless the parties otherwise agree or the Presiding Officer determines that another order would be more expeditious or appropriate and would result in no material prejudice. The Presiding Officer shall determine the order of witness examinations on any Contested Claim, which shall be such as will expedite the Hearing (or Rehearing, if applicable) and insure the proceeding is fair. The Presiding Officer shall administer oaths to witnesses and each party to the proceeding on a Contested Claim. Every party to a Contested Claim has a right to present a closing argument in the order determined by the Presiding Officer. Every person, including any Claimant, who is a party to a Hearing (or any Rehearing, if applicable) on a Contested Claim before the Local Board shall have the right to be represented by counsel, submit evidence, offer arguments, and cross examine witnesses.

13. **Consultation Among Members.** In connection with any ruling, the Presiding Officer may consult on the record with the other members of the Local Board. The Presiding Officer and/or the Local Board may consult in executive session with the Local Board's legal counsel so long as all requirements of the Open Meeting Law are satisfied. The Local Board may also go into executive session should such a session be required for any lawful reason, including the need to preserve the confidentiality of medical information. However, all Decisions of the Local Board shall be made in open, public session of the Local Board.
14. **Informal Proceedings.** All Hearings (or any Rehearing, if applicable) on a Contested Claim before the Local Board shall be conducted in an informal manner and without adherence to the rules of procedure or evidence required in judicial proceedings. The manner of conducting the Hearing (or any Rehearing, if applicable), rulings on evidentiary or procedural objections, and the failure to adhere to rules of procedure or evidence required in judicial proceedings shall not be grounds for reversing any order or Decision of the Local Board in connection with a Contested Claim, provided substantial evidence supports such order or Decision.
15. **Subpeona.** The Presiding Officer at any Hearing (or any Rehearing, if applicable) on a Contested Claim may cause subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence to be issued and considered by the Local Board and the parties' counsel. Such subpoenas may be issued upon application by a party to the Presiding Officer filed with the Secretary of the Local Board, or upon the Presiding Officer's own order. The party seeking such discovery must demonstrate to the Presiding Officer that the party has reasonable need of the testimony or materials being sought. Unless otherwise provided by law, subpoenas so issued shall be served, and, upon application to the Superior Court or other court of competent jurisdiction by a party or the Presiding Officer, enforced in the manner provided by law for the service and enforcement

of subpoenas in a civil action. The Presiding Officer may quash or modify a subpoena if it is unreasonable or oppressive or if the desired testimony or documents sought thereby may be obtained by a less intrusive alternative method. Each subpoena issued in a Contested Claim must contain a case number assigned by the Local Board to the Claim at issue, a caption listing the parties involved, a list or description of the documents or testimony sought, the full name and home or business address of the custodian of the records sought (or all persons subpoenaed) and the name and address and phone number of the party or his counsel requesting the subpoena. A person may object to a subpoena within five (5) days of its service upon him or at the outset of any Hearing (or Rehearing, if applicable) on a Contested Claim if the subpoena was served less than five (5) days before the Hearing (or Rehearing, if applicable).

16. **Bifurcation of Issues/Hearing.** In connection with any Contested Claim, the Presiding Officer is empowered to bifurcate (*i.e.*, separate into two or more) issues presented to the Local Board for resolution, or set multiple Hearings (or multiple sessions of a single Rehearing, if applicable) in a single case. Any party to a Contested Claim may request bifurcation or multiple Hearings (or multiple sessions of a single Rehearing, if applicable) by filing a motion addressed to the Presiding Officer and filed with the Secretary of the Local Board.
17. **Motions.** Any party to a Contested Claim may move the Local Board for relief. Motions shall be in writing and filed at least fifteen (15) days before any Hearing (or Rehearing, as applicable) on a Contested Claim. Copies of all motions shall be sent by U.S. mail to the Secretary of the Local Board and all parties to the proceeding. Should any party file a motion for relief in connection with a Contested Claim, any party to the Hearing (or Rehearing, as applicable) on said Contested Claim may file papers opposing such motion within five (5) days of receipt of such motion. No replies to any opposition memoranda shall be permitted unless the Presiding Officer orders otherwise. All motions for procedural relief shall be decided by the Presiding Officer within thirty (30) days of submission. All motions for substantive relief shall be determined by the majority vote of the members of the Local Board at a Hearing (or Rehearing, if applicable). All rulings on motions shall be summarized in writing and sent by U.S. mail to all parties to the proceedings within five (5) days of the making of such rulings except that, if such rulings constitute a Decision, then such Decision shall be sent in accordance with the requirements of Section 23 of these procedures.
18. **Original and Copies.** In connection with any Contested Claim, originals of documents shall be introduced into evidence with leave of the Presiding Officer to substitute the originals with copies. Whenever possible, the parties to any Contested Claim shall exchange copies of exhibits or other pertinent material before the Hearing or Rehearing at which they are to be offered. Parties to any Hearing or Rehearing on a Contested Claim have the right to compare copies of documents to the originals of same.

19. **Cooperation.** Whenever possible, documents and exhibits introduced in a Contested Claim shall be submitted by stipulation of the parties. The parties to any Contested Claim may agree upon any facts involved in the proceeding by written stipulation. Stipulated facts shall be considered as evidence in the proceeding and all stipulations shall be entered upon the record.
20. **Exclusion of Evidence.** The Presiding Officer may preclude the presentation of argumentative, repetitious or irrelevant questioning in any proceeding on a Contested Claim. All relevant evidence is admissible, but the Presiding Officer may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, it tends to create confusion, or its presentation would result in undue delay or needless presentation of cumulative evidence. The Presiding Officer may exclude from the record irrelevant, immaterial or unduly repetitious evidence.
21. **Notice of the Truth of Widely-Known and Accepted Facts.** The Presiding Officer in any proceeding involving a Contested Claim may take notice of the truth of certain widely-known and accepted facts, including generally recognized technical, statistical, actuarial or scientific facts within the Local Board's specialized knowledge. Parties to a Contested Claim shall be notified, either before or during the Hearing or any Rehearing, or by reference in preliminary reports, or otherwise, of any widely-known and generally accepted facts noticed as true, including any staff memoranda or data. Parties to a Contested Claim shall be afforded an opportunity to contest any material so noticed. The Local Board's experience, technical competence and specialized knowledge may be utilized in its evaluation of all evidence. The Local Board shall be entitled to consider and rely on as true information furnished by the Employer, Administrator, the Local Board's independent legal counsel or the Plan's actuary.
22. **Depositions.** The Presiding Officer may permit a deposition to be taken, in the manner and upon the terms designated by him, of any party or witness who cannot be subpoenaed or is unable to attend the Hearing or Rehearing on a Contested Claim. Such depositions may be ordered on application of a party filed with the Secretary of the Local Board, or upon the Presiding Officer's own motion. The party seeking a deposition must demonstrate to the Presiding Officer that the party has reasonable need of the testimony being sought. All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness at a Hearing on a Contested Claim shall be the same as for a witness in the Superior Courts of the State of Arizona, unless otherwise provided by law or Local Board rule. The Presiding Officer may also permit a witness to appear and give testimony telephonically if such appearance will not cause undue prejudice to any party and the party requesting such testimony bears any charges incurred by the Local Board relating thereto.
23. **Decisions.** Within twenty (20) days after the completion of any Hearing (or Rehearing, as applicable), the Local Board shall render its Decision on the Claim

by a majority vote of the Local Board's members. The Local Board's Decision may be orally entered upon the record upon completion of the Hearing, but must also be reduced to writing and sent by certified mail to the Claimant (or his/her attorney) and all parties to the Hearing or Rehearing (or their respective counsel), including the Employer and the Administrator, addressed to the last known address of each such person, within twenty (20) days of the completion of the Hearing. Each Decision on a Contested Claim shall contain (i) a short statement of the facts, appropriate separate findings of fact and conclusions of law, and (ii) a paragraph or paragraphs reflecting the substance of the Local Board's Decision. The Local Board's findings of fact on a Contested Claim shall be based on the evidence presented and on matters officially noticed as true by the Local Board in the Hearing (or Rehearing, if applicable). Each Decision made by the Local Board on a Claim other a Contested Claim shall set forth the reasons supporting the Local Board's Decision.

24. **Minutes of Meetings.** The Secretary to the Local Board shall keep a record of all proceedings before the Local Board and transmit minutes of those proceedings to the Administrator within forty-five (45) days of each meeting of the Local Board. The minutes of a meeting of the Local Board are separate from any Decision of the Local Board on a particular Claim.
25. **Duty to Provide Address.** It is presumed that any Decision sent by certified mail to the last known address of the Claimant or Claimant's attorney (or any other party to the Decision or the Employer and Administrator) is received five (5) days after mailing to said person(s). It is the duty of the Claimant and any party to any Hearing (or Rehearing, if applicable) to inform the Local Board of that person's (or his/her attorney's) current address.
26. **Failure to Appear at Hearing.** In the event a Claimant (and his counsel, if any) or any other party fails to appear at a duly noticed Hearing (or Rehearing, if applicable) on a Contested Claim, the Local Board may enter a Decision by default or vacate the Hearing (or Rehearing, if applicable). In the event a witness fails to appear at a duly Noticed Hearing (or Rehearing, if applicable) on a Contested Claim, the Presiding Officer may exclude the witness' testimony or reschedule the Hearing (or Rehearing, if applicable).
27. **Rehearing.** Any Claimant (or other party) adversely affected by a Decision of the Local Board, or the Employer or Administrator, may request a Rehearing before the Local Board, as more particularly set forth in Section D herein.
28. **Final Decision on Hearing.** Any Decision for which no Rehearing is timely requested is deemed a final decision which may be appealed to the Superior Court for the State of Arizona within the periods specified in, and the manner provided by, the Arizona Revised Statutes (*see* A.R.S. § 12-901 *et seq.*) and the rules adopted by the Superior and Appellate Courts of the State of Arizona.

29. **No Rehearing on Remand.** A Hearing before the Local Board on a matter remanded from the Superior Court is not subject to a Rehearing before the Local Board.
30. **Notice of Lawsuit and Transmission of Record.** Within ten (10) days of filing a complaint for judicial review of any Decision following a Hearing, the party filing such complaint shall send by U.S. mail a copy of the complaint to the Local Board, Employer and Claimant (whichever is applicable) and the Administrator. Upon receipt of a complaint for judicial review of its Decision(s), the Local Board shall transmit a copy of the record relating to such Decision to the Clerk of the Superior Court.
31. **Communication Among The Board.** The members of a Local Board shall not communicate with one another or take action as a collective body about any issue relating to a pending Claim unless such communication and action is made or taken in accordance with the Open Meeting Law.

**D. Rehearing of Decisions**

1. **Request for Rehearing.** The Employer, Administrator, or a party to any Hearing resulting in a Decision may request a Rehearing of said Decision within sixty (60) days of the date said party (or the Employer or Administrator) receives a copy of the Decision by filing a request with the Secretary of the Local Board at the following address:

Ms./Mr. \_\_\_\_\_  
 Secretary, \_\_\_\_\_ Local Board  
 \_\_\_\_\_  
 \_\_\_\_\_

2. **Copy to All Parties.** On the date a party (or the Employer or Administrator) files a request for Rehearing, it shall send by U.S. mail a copy of said request for Rehearing to all parties to the Decision (as well as the Administrator and Employer, if applicable) or their respective counsel.
3. **Content of Request for Rehearing.** Each request for Rehearing shall state the basis for such request, and shall be limited to the following matters:
  - a. Irregularity in the proceedings of the Local Board or allegations that the Local Board and/or its Presiding Officer abused their discretion and thereby deprived the moving party of a fair Hearing;
  - b. Misconduct of the Local Board or any adverse party;
  - c. Accident or surprise, which could not have been prevented by ordinary prudence;

- d. Material evidence, newly-discovered, which with reasonable diligence, could not have been discovered and produced at the Hearing;
- e. Excessive or insufficient awards;
- f. Error in the administration or rejection of evidence or other errors of law occurring at the Hearing or during the progress of the case leading up to the Hearing;
- g. That the Decision is the result of passion or prejudice; or
- h. That the Decision, including any findings of fact or law, is not justified by the evidence or is contrary to law.

A request for Rehearing may be denied by a Local Board if it merely reiterates matters set forth in the Claimant's request for Hearing.

- 4. **Opposition to Request for Rehearing.** Any party (or the Employer or Administrator, if applicable), may file with the Local Board a response opposing any request for a Rehearing within fifteen (15) days after that person's receipt of a copy of the request for Rehearing. On the date it is filed with the Local Board, a copy of any response opposing a request for Rehearing must be sent by U.S. mail to all parties interested in the Rehearing, including the Employer and Administrator (as applicable).
- 5. **Deadline for Rehearing.** Any request for Rehearing shall be heard by the Local Board meeting in accordance with the Open Meeting Law within fifteen (15) days after any response or opposition to the request for Rehearing is filed, or if no response or opposition is filed, within twenty (20) days after the request for Rehearing is filed with the Local Board. These deadlines may be extended by the Local Board for good cause shown, including the need to secure additional opinions or testimony from medical or other experts.
- 6. **Notice of Rehearing.** The Local Board shall provide all parties interested in a Rehearing (including the Employer and Administrator) at least fifteen (15) days' prior written Notice of the Rehearing by certified mail.
- 7. **Rules Governing Rehearing.** All rules governing the conduct of Hearings before the Local Board as set forth in Section C of these rules shall apply to the procedures to be followed in connection with any Rehearing, unless otherwise specified in this Section D.
- 8. **Decision on Request for Rehearing.** Any request for Rehearing shall be granted or denied by a majority vote of the members of the Local Board (in a public

meeting complying with the Open Meeting Law) within twenty (20) days after the Rehearing is completed.

9. **Notice of Decision on Rehearing.** Within twenty (20) days of the completion of any Rehearing, a copy of the Local Board's Decision on the Rehearing shall be sent by certified mail to all parties to the Rehearing (as well as the Administrator) or their counsel at their last known address. It is presumed that any Decision on Rehearing mailed to the last known address of the Claimant or Claimant's attorney (or any other party to the Decision, or the Employer or Administrator) is received five (5) days after mailing. It is the duty of the Claimant and any party to any Rehearing to insure that the Local Board has that person's (or his/her attorney's) current address.
10. **Finality.** Any Decision resulting from a request for Rehearing, including a denial of a request for Rehearing, is a final Decision which may be appealed to the Superior Court of the State of Arizona within the periods specified in, and in the manner provided by, the Arizona Revised Statutes (*see* A.R.S. § 12-901 *et seq.*) and/or rules adopted for use in the Superior and Appellate Courts of the State of Arizona.
11. **Failure to Appear at Rehearing.** In the event that a Claimant (and his counsel, if any) or any other party fails to appear at a duly Noticed Rehearing, the Local Board may enter a Decision on the request for Rehearing by default or vacate the Rehearing. In the event a witness fails to appear at a duly Noticed Rehearing, the Presiding Officer may exclude the witness' testimony or reschedule the Rehearing.
12. **Single Rehearing Permitted.** Unless otherwise allowed by the Local Board, only one Rehearing is available to any party demanding a Rehearing of a prior Decision on any Claim.
13. **Notice of Lawsuit and Transmission of Record.** Within ten (10) days of filing a complaint for judicial review of any Decision on Rehearing, the party filing such complaint shall send by U.S. mail a copy of the complaint to the Local Board and all parties of record, as well as the Employer and Administrator. Upon receipt of a complaint for judicial review of its Decision(s), the Local Board shall transmit a copy of the record relating to such Decision to the Clerk of the Superior Court.

**E. Special Rules for State Agency Local Boards**

**Purpose.** The following rules supplement the above procedures and only apply to State Agency Local Boards.

1. **Case and Caption.** All Contested Claims must be assigned a case number (*e.g.*, "Local Board Case No. 3") and caption (*e.g.*, "John Doe v. Local Board"). It is the duty of the Local Board Secretary to notify all parties to a Contested Claim of

the caption and case number assigned by the Secretary to a particular Contested Claim.

2. **Date Stamp.** All documents filed with the Local Board pertaining to a Contested Claim must be date stamped by the Local Board to indicate when such documents were received by the Local Board.
3. **Case/Caption and Copy Reference.** All Contested Claims, as well as all motions (including responses) and memoranda filed with the Local Board relating thereto must reference the case number and caption assigned to the Contested Claim, and specifically reflect that copies of such papers were mailed or personally delivered (as applicable) to each of the parties to the Contested Claim and the Local Board.
4. **Certification.** All Contested Claims, as well as motions (including responses) and memoranda filed with a Local Board relating to thereto must be signed by the person (or his counsel) submitting same and certified that the signer has read the papers and has a good faith basis for their submission and that such papers have not been filed for purposes of harassment or delay.
5. **Information at Opening.** The Local Board Secretary shall open all Hearings or Rehearings on a Contested Claim by reading the caption and case number of the Contested Claim giving rise to the proceeding, stating the nature and scope of the Hearing or Rehearing, as applicable, and identifying the parties and witnesses for the record.
6. **Rule of Exclusion.** At the request of a party or upon determination by the Presiding Officer, witnesses who are not parties to any Hearing or Rehearing on a Contested Claim may be excluded from the Hearing or Rehearing on said Contested Claim so they cannot hear and be influenced by the testimony of other witnesses.