

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3) Section Number: 1600.500                      Adopted Action: Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) Effective Date of Amendment: November 23, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file at the SURS office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: September 4, 2009; 33 Ill. Reg. 12381
- 10) JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: Nature and Requirements of Formal Hearings rules are required for compliance with Public Act 96-6 [40 ILCS 5/1-113.16(c)], which requires a majority of any committee established by the retirement system board to be board members.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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Kelly A. Jenkins, General Counsel  
State Universities Retirement System  
1901 Fox Drive,  
Champaign, IL 61820

217/378-8825 or 217/378-8838

The full text of the Adopted Amendment begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE D: RETIREMENT SYSTEMS  
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEMPART 1600  
UNIVERSITIES RETIREMENT

## SUBPART A: GENERAL

## Section

- 1600.100 Definitions
- 1600.110 Freedom of Information Act
- 1600.120 Open Meetings Act
- 1600.130 Procurement

## SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

## Section

- 1600.202 Return to Employment
- 1600.203 Independent Contractors
- 1600.205 Compensation Subject to Withholding
- 1600.210 Crediting Interest on Participant Contributions and Other Reserves
- 1600.220 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
- 1600.230 Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
- 1600.240 Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
- 1600.250 Sick Leave Accrual Schedule
- 1600.260 Part-time/Concurrent Service Adjustment
- 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%

## SUBPART C: CLAIMS PROCEDURE AND EVIDENTIARY REQUIREMENTS

## Section

- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries
- 1600.310 Dependency of Beneficiaries

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1600.320 Procedures to be Followed in Medical Evaluation of Disability Claims

## SUBPART D: BENEFIT CALCULATION AND PAYMENT

## Section

1600.400 Determination of Final Rate of Earnings Period  
1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases  
1600.420 Making Preliminary Estimated Payments  
1600.430 Excess Benefit Arrangement  
1600.431 Indirect Payments to Minors and Legally Disabled Persons  
1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse  
1600.440 Voluntary Deductions from Annuity Payments  
1600.450 Overpayment Recovery

## SUBPART E: ADMINISTRATIVE REVIEW

## Section

1600.500 Rules of Practice – Nature and Requirements of Formal Hearings

## SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

## Section

1600.600 Definitions  
1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order  
1600.610 Invalid Orders  
1600.615 Filing a QILDRO with the System  
1600.620 Modified QILDROs  
1600.625 Benefits Affected by a QILDRO  
1600.630 Effect of a Valid QILDRO  
1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999  
1600.640 Alternate Payee's Address  
1600.645 Electing Form of Payment  
1600.650 Automatic Annual Increases  
1600.655 Expiration of a QILDRO  
1600.660 Reciprocal Systems QILDRO Policy Statement  
1600.665 Providing Benefit Information for Divorce Purposes

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40

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ILCS 5/15-177].

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009.

## SUBPART E: ADMINISTRATIVE REVIEW

**Section 1600.500 Rules of Practice – Nature and Requirements of Formal Hearings**

- a) **Administrative Determination**  
The SURS administrative staff shall be responsible for the daily claims-processing function of SURS, including processing of all claims for benefits or service credit or any other claims against or relating to SURS.
- b) **Review by ~~Deputy~~ Director of Member Services**  
Any participant, annuitant, or beneficiary adversely affected by the disposition of a claim by the administrative staff may file a written request for review by the ~~SUR~~Appropriate Deputy Director of Member Services~~SURS~~. A request for review by the ~~Deputy~~ Director of Member Services must be submitted within 30 days after the decision from which review is sought. The Director of Member

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Services' Deputy Director's review will be based upon all materials contained in the file, as well as any additional materials the claimant attaches to the written request for review filed with the Deputy Director of Member Services pertaining to the claim. All filings or submissions, whether optional or required under this Section, shall be considered timely if date stamped by SURS within the time prescribed.

## c) Hearing

- 1) Petition. Any participant, annuitant, or beneficiary adversely affected by the disposition of a claim by the Deputy Director of Member Services may request, in writing, a hearing before the Claims Panel Committee. A request for a hearing must be submitted to the General Counsel of SURS or his or her designee within 30 days after the decision from which review is sought.
- 2) Statement of Claim. Upon filing a request for a hearing, the claimant shall be informed that he or she is required to file a Statement of Claim no later than 30 days in advance of hearing. The Statement of Claim, which shall include: the claimant's name, social security number, and address; the name and address of the claimant's authorized representative, if any; a statement of the facts forming the basis for the appeal; any documents or other materials the claimant wishes to be considered in conjunction with the appeal; a list of witnesses, if any, the claimant intends to present; and an explanation of the relief sought.
- 3) Notification. Upon scheduling of a hearing before the Claims Panel Committee, a claimant shall be *provided with written notice of: the date, time and place of the hearing; the subject matter of the hearing; and relevant procedural and substantive statutory and regulatory provisions* [5 ILCS 100/10-25]. Notice of the hearing shall also inform the claimant that he or she will be afforded the opportunity to provide a statement of his or her position, present oral evidence, and conduct such examination and cross-examination of witnesses as is necessary for full and true disclosure of the facts. Notice shall be given to the claimant that he or she is required to provide written confirmation, at least three days prior to the scheduled date of the hearing, of his or her intent to appear at the hearing, whether in person or by telephone conference call. The claimant is not

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required to appear at the hearing. The claimant may appear at the hearing by telephone conference call. In the absence of the claimant, the Claims ~~Panel~~[Committee](#) will consider the claimant's Statement of Claim and such other matters as may be properly brought before it at the hearing.

- 4) Pre-hearing Conference. Upon request of the General Counsel or upon the decision of the Hearing Officer, a pre-hearing conference shall be held for the purpose of simplification or definition of issues or procedures at the hearing.
  - 5) Representation. The claimant and SURS may be represented by counsel or a designated spokesperson at the hearing.
  - 6) Burden of Proof. It shall be the burden of the claimant to establish a right to the benefit claimed, or the right to the continuation of the benefit claimed in cases of revocation of the benefit by SURS, by establishing that right by a preponderance of the evidence.
- d) Discovery. All discovery is at the discretion of the Hearing Officer. Requests to take discovery must be made in writing to the Hearing Officer with notice to the other party. Discovery may be taken with the prior permission of the Hearing Officer only upon good cause shown, that is, if the evidence sought is material and cannot be obtained in any other way. Failure to comply with orders of the Hearing Officer may be sanctioned by the Hearing Officer, by means including, but not limited to, dismissal of a claim.
- e) Depositions
- 1) The Hearing Officer may order the taking of evidence depositions [of a person](#), specifying the subject matter to be covered, ~~of a person~~ under oral examination or written questions, for use as evidence at the hearing, provided:
    - A) The Hearing Officer has determined upon request that there is a need to preserve a person's testimony;
    - B) The request is made on motion by a party who gives notice of the motion to the other party; and

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- C) The Hearing Officer has determined that an evidence deposition containing oral testimony will be necessary to the Claims [PanelCommittee](#) in determining the merits of the claim.
- 2) The taking of depositions shall be in accordance with the provisions for taking depositions in civil cases, and the order for the taking of a deposition may provide that any designated books, papers, documents, or tangible objects that are not privileged shall be produced at the same time and place.
- 3) Any party to the hearing shall, during any deposition process, have the right to confront and cross-examine any witness whose deposition testimony is to be presented to the Claims [PanelCommittee](#).
- 4) Depositions shall be taken in the county of residence or employment of the witness, unless the witness waives that right in writing.
- 5) Depositions shall be taken at the cost of the party requesting the deposition.
- f) Subpoenas
- 1) The Hearing Officer may request the Secretary of the Board to issue a subpoena to compel the attendance of a witness at an evidence deposition or the production of documents when the witness has, or such documents contain, relevant evidence. A party may also request the Hearing Officer to request the Secretary of the Board to issue a subpoena to compel the attendance of a witness at an evidence deposition or the production of documents. The request shall either be in writing or on the record and shall:
- A) Identify the witness or document sought; and
- B) State the facts that will be proven by each witness or document sought.
- 2) The Hearing Officer shall grant or deny the request, either in writing or on



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the record. If the request for subpoena is granted, the Hearing Officer shall, if necessary, reschedule the hearing to a specific date. The request for subpoena shall be denied if the Hearing Officer finds that the evidence sought is immaterial, irrelevant, or cumulative. If the request for subpoena is denied, the specific reasons for denial of the request shall be made part of the record on appeal.

- 3) If a witness fails to obey a subpoena, the party seeking enforcement of the subpoena shall prepare an application to the circuit court of the county in which the subpoenaed witness resides requesting enforcement of the subpoena, and shall present the application to the Hearing Officer, at the same time serving a copy of the application upon the other party. If satisfied that the subpoena was properly served and that the application is in proper form, the Hearing Officer shall sign a subpoena to be submitted with the application and the party seeking the subpoena may then file and prosecute the application ~~into~~ the circuit court, in the name of the Board. The petitioner in the application shall be styled as "Name of Petitioner ex rel. Board of Trustees of the State Universities Retirement System of Illinois" unless the petitioner is SURS, in which case the petition shall be brought in the name of the Board. In the event of an application being filed with the circuit court, the matter shall be continued pending the outcome of the application to enforce the subpoena.
- 4) The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the circuit courts of this State and shall be paid by the party seeking the subpoena.

g) Conduct of the Hearing

- 1) Hearing Officer. The hearing shall be conducted by the Hearing Officer. Other members of the Claims ~~Panel~~Committee may, but are not required to, attend the hearing.

A) The Hearing Officer shall have full power to conduct the hearing and the presence of any other members of the Claims ~~Panel~~Committee is not required. The Hearing Officer shall be one of the members of the Claims ~~Panel~~Committee chosen by ~~the Panel~~them to be the Hearing Officer.

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- B) The Claims Panel shall consist of:
- i) the Executive Director of SURS;
  - ii) an attorney licensed to practice law in the State of Illinois approved by the Board; and
  - iii) one other person, selected by the Chairperson, who shall be a member of the Board, a participant in SURS or an attorney licensed to practice law in the State of Illinois.
- C) Each member of the Panel shall be reimbursed for travel or other related expenses incurred in connection with his or her duties as a member of the Panel. If he or she is not a member of the Board or currently employed by one of the employers covered by SURS, the member shall receive reasonable compensation, as recommended by the Executive Director and approved by the Board, for time spent in reviewing claims and attending Panel hearings. ~~The Claims Committee shall be composed of the Executive Director of the System (the agency head) and two additional members chosen by the Board, at least one of whom shall be a Board member. The final member of the Claims Committee shall be selected from the membership of the Board, participants in SURS, or attorneys licensed to practice law in the State of Illinois.~~ At a minimum, the members of the Claims Panel~~Committee~~ shall have a general familiarity with the provisions of the Code, this Part and policies of SURS.
- 2) Procedures-
- A) The Hearing Officer shall conduct a full and fair hearing, receive testimony of the claimant and admit exhibits into evidence, avoid delay, maintain order and make a sufficient record for a full and true disclosure of the facts and issues.
  - B) To accomplish these ends, the Hearing Officer shall make all procedural and evidentiary rulings necessary for the conduct of the

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hearing.

- C) [All testimony shall be taken under oath before an officer authorized to administer oaths by the laws of this State or of the United States or of the place where the testimony is to be given.](#)
  - D) As a general matter, *the rules of evidence as applied in civil cases in the circuit courts of the State of Illinois shall be followed; however, evidence inadmissible under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Any part of the evidence may be received in written form, provided that the interests of the parties will not be prejudiced. Notice may be taken of generally recognized technical facts within SURS' specialized knowledge and SURS' experience, technical competence and specialized knowledge may be used in evaluation of the evidence.* [5 ILCS 100/10-40]
  - E) The Hearing Officer, and any member of the Claims [Panel](#)~~Committee~~ attending the hearing, may ask questions necessary for better understanding of the facts or law.
  - F) The Hearing Officer shall have the authority to impose reasonable time limits for each party to present its case and shall, in general, have the power to manage and control the hearing process.
  - G) The hearing shall be open to the public unless the Hearing Officer, for good cause shown, determines otherwise.
- 3) Record of Proceedings. Two records of proceedings shall be kept that shall be in the form of:
- A) a non-verbatim "bystander's report"; and
  - B) either a stenographic transcription or a tape recording. The claimant may obtain a stenographic transcription or a copy of a tape recording of the hearing by making a timely request and paying the actual cost entailed.

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## 4) Disqualification; Ex Parte Communications

## A) Disqualification-

- i) *A Hearing Officer or other member of the Claims [PanelCommittee](#) may be disqualified on grounds of bias or conflict of interest. A motion to disqualify a Hearing Officer or other member of the Claims [PanelCommittee](#) for bias or conflict of interest should be made to the Hearing Officer by any party to the hearing at least one week prior to the commencement of the hearing, with a copy of the motion to be simultaneously submitted to the General Counsel. The motion shall be heard, considered and ruled upon by the Hearing Officer at or prior to the commencement of the hearing. The movant shall have the burden of proof with respect to the motion to disqualify. Either an *adverse ruling* or the fact that a Hearing Officer or other member of the Claims [PanelCommittee](#) is an employee of SURS or has a contract with SURS, standing alone, shall not constitute bias or conflict of interest. [5 ILCS 100/10-30]*
- ii) The Executive Director may not be called as a witness unless it is demonstrated that the Executive Director has relevant noncumulative personal knowledge of facts bearing upon the claim. The Executive Director may not be disqualified as a member of the Claims [PanelCommittee](#) on the basis that the Executive Director is responsible for the overall administration of SURS.
- iii) In the event that a Hearing Officer or other member of the Claims [PanelCommittee](#) is disqualified or is otherwise unable to serve, the Board President may appoint another person to the Claims [PanelCommittee](#) and shall appoint another person if the Claims [PanelCommittee](#) is reduced to fewer than two members, or the Claims [PanelCommittee](#) shall appoint another Hearing Officer from among its

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members, as the case may be.

- B) Ex Parte Communications Prohibited. *Except in the disposition of matters that SURS is authorized by law to entertain or dispose of on an ex parte basis, the members of the Claims ~~Panel~~Committee shall not, after receiving notice of a hearing in a contested matter, communicate, directly or indirectly, in connection with any issue of fact, with any party, or in connection with any other issue with any party, or the representative of any party, except upon notice and opportunity for all parties to participate. However, an employee of SURS may communicate with other employees of SURS and an employee of SURS or member of the Claims ~~Panel~~Committee may have the aid and advice of one or more assistants. An ex parte communication received by any member of the Claims ~~Panel~~Committee shall be made a part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received. Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. [5 ILCS 100/10-60]*
- 5) ~~Recommendations and~~ Decisions of the Claims Panel and Executive Committee
- A) Claims ~~Panel Decisions~~Committee Recommendation.
- i) The record of proceedings shall be completed upon conclusion of the hearing by the Hearing Officer, unless the Hearing Officer determines to re-open the proceedings. Upon conclusion of all evidence and arguments, the Claims ~~Panel~~Committee shall privately deliberate and make a ~~Decision~~recommendation as to the disposition of the claim based on the evidence of record. ~~The record of proceedings shall be completed upon conclusion of the hearing by the Hearing Officer, unless the Hearing Officer determines to~~

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~~re-open the proceedings. If a Statement of Exceptions to the Decision is not filed pursuant to this subsection (g)(5)(A), the Decision is final for all purposes and not subject to administrative or judicial review. If a Statement of Exceptions to the Decision is filed or if two members of the Panel are unable to agree on a Decision, then the claim shall be presented to the Executive Committee for a final administrative decision. The Claims Committee shall make one of the following recommendations: affirmance of the administrative action, reversal of the administrative action, or remand of the case to the administrative staff for further consideration. The recommendation of the Claims Committee shall be made to the Executive Committee of the Board.~~

- ii) If a Statement of Exceptions is filed, it shall be filed, with a brief in support, with SURS within 20 days after the date of the Claims Panel Decision. Any responsive brief shall be filed within 15 days after the filing of the Statement of Exceptions. Any reply brief shall be filed within 10 days after the filing of the responsive brief. The filing of any responsive or reply brief is optional. The Executive Committee will make a final administrative decision based on the Claims Panel Decision, any dissenting opinion, any Statement of Exceptions and briefs properly filed.
- iii) If the claim is presented to the Executive Committee because two members of the Claims Panel are unable to agree on a Decision, the Executive Committee shall make a final administrative decision based on any opinions of the Claims Panel members, the record and any briefs properly filed by the claimant or SURS. The filing of any opening, responsive or reply brief in response to the decision is optional. Any opening brief shall be filed with SURS within 20 days after receiving notification from the Hearing Officer that the Claims Panel was unable to agree on a Decision. Any responsive brief shall be filed within 15 days after the filing of any opening brief. Any reply brief

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shall be filed within 10 days after the filing of any responsive brief.

- iv) All filings shall be served upon the opposing party and shall contain a certificate of service. Filing deadlines in this subsection (g)(5)(A) may be continued to a date certain by the Hearing Officer for good cause shown on written application filed with SURS prior to the expiration of the deadline sought to be continued. The claimant may file a statement of exceptions to the findings of the Claims Committee and may file a brief in support of its statement of exceptions. The statement of exceptions and brief must be submitted to the General Counsel not less than 30 days prior to the date that the Executive Committee is scheduled to hear this claim, as set forth in written notice to the claimant. The notice shall be given not less than 60 days prior to the meeting of the Executive Committee. SURS may file a reply brief not less than 7 days prior to the date that the Executive Committee is scheduled to hear this claim. The recommended decision of the Claims Committee is a non-final decision, subject to the ultimate decision of the Executive Committee of the Board.

B) ~~Executive Committee Decision-~~

- i) When necessary pursuant to subsection (g)(5)(A), the Executive Committee of the Board shall make a decision on the claim following receipt of a recommended decision from the Claims Committee, any statement of exceptions or brief filed by the claimant, and any reply brief filed by SURS. No oral argument shall be permitted before the Executive Committee unless otherwise determined by the Executive Committee. The Executive Committee shall consider the recommendation of the Claims Committee, any statement of exceptions or brief filed by the claimant, any reply brief of SURS, and any permitted oral argument in making a decision for SURS as to the disposition of the claim.

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- [ii\)](#) The Executive Committee shall render one of the following decisions with respect to the claim: affirmance of the administrative action, reversal of the administrative action, or remand of the case to the administrative staff for further consideration. Remand of the case to the administrative staff shall not be considered a final decision of the Executive Committee. A decision by the Executive Committee either reversing or affirming the decision of the administrative staff shall constitute a final decision for the purpose of review under the Administrative Review Law [735 ILCS 5/Art. III]. *A final decision of the Executive Committee shall be in writing or stated in the record. A final decision of the Executive Committee shall include findings of fact and conclusions of law, separately stated.*
- [iii\)](#) The Executive Committee may adopt, as its own, the findings of fact and conclusions of law of the [Claims Panel Committee](#). *Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.*
- [iv\)](#) *All decisions of the Executive Committee shall specify whether they are final and subject to the Administrative Review Law. [5 ILCS 100/10-50]*
- [v\)](#) Parties or their agents shall be notified either personally or by registered or certified mail of any decision of the Executive Committee. Upon request, a copy of the decision shall be delivered or mailed to each party and to his or her attorney of record.

(Source: Amended at 33 Ill. Reg. 16755, effective November 23, 2009)