

**ARIZONA BOARD OF EXECUTIVE CLEMENCY  
BOARD POLICY #104**

<b>Policy Title:</b>  <b>HEARING RECUSAL</b>	<b>Effective Date: September 1, 2024</b>	<b>Policy #104</b>
	<b>Supersedes: July 06, 2017</b>	

**PURPOSE:**

The purpose of this policy is to outline the general procedures and guidelines associated with the Board’s practice of conducting fair and equitable hearings without regard to personal or other biases and interests.

**AUTHORITY:**

A.R.S. §§ 38-501; 502; 503;504;505;506;507;508;509;510;511  
State Personnel Rules  
State Employee Handbook

**PROCEDURE:**

**104.1 Determination of Recusal in Board Matters Requiring Vote**

1.1 There are times when a Board member of the Board of Executive Clemency may feel it would be inappropriate to participate in a matter pending before the Board. When this occurs, a Board member may recuse themselves from participating and making a determination in the matter.

1.1.1 Recusal of self from a hearing must be determined by that individual.

1.2 A Board member should disqualify themselves in any proceeding in which their impartiality might reasonably be questioned or where they have a personal bias or prejudice concerning a party, or personal knowledge of disputed facts concerning the matter.

1.3 A Board member should question their participation in a matter if they have already predetermined their vote concerning the outcome or if the Board member has a personal, professional or financial interest in the outcome. As a general rule, a Board member should recuse himself if participation would violate or conflict with prevailing statutes (ARS §38-501-38-510), state personnel rules and provisions within the State of Arizona Employee Handbook.

1.4 Examples illustrating when a Board member may wish to consider recusing themselves are:

**Financial Involvement:** Recuse yourself when you or a relative have a financial involvement that might reasonably be expected to impair your objectivity. Financial involvement means any personal or business relationship with a participant at the hearing. Relative means the spouse, child, child's child, parent, grandparent, brother or sister of whole or half-blood and their spouses and the parent, brother, sister or child of a spouse. A.R.S. Sec. 38-502. Usually step children and adopted children and their spouses are included under the purview of immediate family.

**Personal Involvement:** Recuse yourself when you or members of your immediate family have personal involvement with the inmate, the investigating officer, an officer of the court, a victim, or a member of the correctional staff that creates some benefit to you or to an immediate family member. A board member should recuse themselves if they have knowledge, information, or have a relationship that would prevent them from participating in a fair, objective and unbiased hearing. Personal involvement means other than a work related relationship.

**Professional Services** (lawyer, accountant, etc.): If a Board member is currently receiving professional services or is providing services to an individual or organization that has a vested interest in a board hearing, it is not advisable for the Board member to participate in a hearing. Board members should seek an advisory opinion from the Attorney General's Office regarding the Board member's ability to participate in the hearing.

**Personal Interest:** If a Board member is related to someone who is directly or indirectly involved in a personal relationship with an inmate, victim or other participant, that Board member should not participate in the matter.

**Political Interest:** State employees are allowed to participate in campaigns and solicit campaign contributions for political candidates. However, a Board member should recuse themselves if they have knowledge, information, or have a relationship with a candidate or holder of political office who has a matter before the board that would prevent them from participating in a fair, objective and unbiased hearing.

## **104.2 Notice to the Public**

2.1 If present at the start of a hearing, any Board member who intends to recuse himself from a hearing shall declare their intention before testimony begins and leave the board room.

2.1.1 Stating the reason for a Board member's decision to recuse is not required.

## **104.3 Documentation of Recusal**

3.1 If a Board member recuses themselves from a matter, they shall submit a signed memorandum stating the matter which they are recusing themselves to the Board Chair and the Executive Director.

3.1.1 A copy of the signed memorandum shall be placed in the:

- a) inmate's file for inclusion in the Board packet in future proceedings;
- b) Board member's personnel file;
- c) designated shared drive folder; and

d) hard copy file maintained in the Executive Director's Office.

#### **104.4 Recusal of Board Chairman**

4.1 If the Board Chair recuses themselves from a hearing, they shall designate another member to act as Panel Chair.

#### **Implementation:**

This policy was adopted by the Arizona Board of Executive Clemency in accordance with the law.