

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

<b>Policy Title:</b>  <b>HEARING RECUSAL</b>	<b>Effective Date:</b> July 06, 2017	<b>Policy #104</b>
	<b>Supersedes:</b> April 23, 2014 #115	

**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:**

**115.1 Determination of Recusal**

- 1.1 There are times when a 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 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 member should disqualify him/herself 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 member should question participation in a matter if they have already predetermined their vote concerning the outcome or when the member has a personal, professional or financial 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. Relative means the spouse, child, child's child, parent, grandparent, brother or sister of whole or

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BOARD POLICY #104**

half-blood and their spouses and the parent, brother, sister or child of a spouse. A.R.S. Sec. 38-502.

a person's parents, spouse, children, and siblings and will also include the parent's spouse. Usually step children and adopted children and their spouses are included under the purview of immediate family. Financial involvement means any personal or business relationship with a participant at the hearing.

***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 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 workrelated relationship.

***Professional Services*** (lawyer, accountant, etc.): If a board member is currently receiving services from a professional person or is providing services to an individual that has a vested interest in a board hearing, it is not advisable from a policy standpoint for the board member to participate in a hearing. Board members should seek an advisory opinion from the attorney general's office regarding the member's ability to participate in the hearing should such a conflict arise.

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

***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.

## **115.2 Notice to the Public**

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

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

## **115.3 Recusal of Board Chairman**

3.1 If the Board Chairman recuses him/herself from a hearing, he or she shall designate another member to act as Panel Chairperson