**Section 1700.120 Discovery**

a) After initiation of a complaint, any party may obtain discovery by one or more of the following methods:

1) Depositions upon oral examination or upon written questions;

2) Written interrogatories;

3) Production of documents or other items, or permission to enter upon land or other property, for inspection and other purposes; or

4) Requests for an informal conference for purposes of setting a discovery schedule and plan.

b) Unless otherwise limited by order of the Administrative Law Judge, the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, including:

1) the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things; and

2) the identity and location of persons having knowledge of any discoverable matter for purposes of impeachment of testimony, admission, exception to hearsay or for which an affidavit may be used.

c) To the extent that any aspect of discovery is not addressed in this Section, the rules of discovery as applied in civil cases in the circuit courts of Illinois shall be followed. In the case of conflict between this Section and the rules of discovery as applied in civil cases in the circuit courts of Illinois, the latter shall prevail.

d) Production of Documents

Any party may, by written request, direct any other party to produce for inspection, copying, reproduction or photographing any specified documents, or to disclose information calculated to lead to the discovery of the whereabouts of any of these items, whenever the nature, contents, or condition of such documents is relevant to the subject matter and is not privileged. The request shall specify a reasonable time, not less than 28 days, within which the related actions are to be performed. The production, inspection, copying or photographing of any departmental records shall be done on Department premises, unless other arrangements can be made with the consent of both parties. A person served with a written request for production of documents shall:

1) Comply with the request within the time specified, or

2) Serve upon the requester written objections on the grounds that the request is improper in whole or in part and state the reasons why this request is improper. Any objection to the request or refusal to respond shall be heard by the ALJ upon prompt notice and motion of the party submitting the request in accordance with section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100].

3) Upon request, furnish an affidavit stating whether the production is complete in accordance with the request.

e) Request for Admissions

1) A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request and/or for the admission of the genuineness of any relevant documents described in the request in accordance with Supreme Court Rule 216. Copies of the documents shall be served with the request unless copies have already been furnished. Each of the matters concerning admission of fact, or the genuineness of each document for which admission of fact is requested, shall be admitted, unless, within 28 days after service of the request or additional time as may be granted by the ALJ, the person to whom the request is directed serves upon the requesting party either:

A) A sworn statement denying specifically the matter on which admission of fact is requested, or setting forth, in detail, the reason why these matters cannot be truthfully admitted or denied. A denial shall fairly meet the substance of the requested admission. If good faith requires that a party qualify an answer or deny only a part of an admission of fact, the party shall specify so much of it as is true and deny or qualify the remainder. An answering person may not give lack of information or knowledge as a reason for failure to admit or deny unless that person states that they have made reasonable inquiries and that the information known or regularly obtainable by that person is insufficient to enable the person to admit or deny that fact; or

B) A written objection on the grounds that some or all of the requested admissions of fact are privileged or irrelevant. An objection on the grounds of relevance may be noted by any party but it is not to be regarded as just cause for refusal to admit or deny. If written objections to a request are made, the remainder of the request shall be answered within the period designated in the request. A requesting party, upon receipt of any objection, may have the objection heard and determined by the ALJ upon prompt notice and motion directed to the ALJ.

2) Any admission made by a party to a request under this Part is for the purpose of the pending action only. It does not constitute an admission by that party for any other civil proceeding and may not be used against that party in any other proceeding.

f) Interrogatories

Any party may serve interrogatories on any other party. One copy of the interrogatories shall be filed with the ALJ with proof of service on all other parties entitled to notice. Written interrogatories shall be reasonably spaced to permit the answering party to reply to the interrogatories served on that party. The answering party may attach an addendum to the copies if the space provided is insufficient. The number of written interrogatories served shall not exceed 30, inclusive of all subsections, except by leave of the presiding ALJ.

1) Within 28 days after service of the interrogatories upon the relevant party, that party shall timely file a sworn answer or an objection to each interrogatory and state its basis. Sworn answers to interrogatories directed to a public or private corporation, or a partnership or association shall be made by an officer, partner, or agent, who shall furnish information available to the party.

2) Duty of attorney. It is the duty of an attorney directing interrogatories to restrict them to the subject matter of the particular case, to avoid undue detail, and to avoid the imposition of any unnecessary burden or expense on the answering party.

g) Depositions

Any party may serve notice and take the deposition of another person. The deposition shall be on the record. The party or party's attorney before whom the deposition is to be taken shall put the witness under oath or affirmation. Examination and cross-examination shall proceed as at a hearing.

1) The deponent in a discovery deposition may be examined regarding any matter subject to discovery under this Part and Illinois Supreme Court Rule 206.

2) Any objections made at the time of the examination shall be included in the deposition. The party before whom the deposition is taken shall not rule on objections to the evidence, but evidence objected to shall be taken subject to the objection.

3) When the testimony is fully transcribed, the deposition shall be submitted to the deponent for examination and signature, unless examination and signature are waived by the deponent. The party's attorney shall certify within the deposition that the deponent was duly sworn and that the deposition is a true record of the testimony given by the deponent. If the deposition is not signed by the deponent, the party's attorney shall certify the deposition and state the reason for the omission of the signature. A certified deposition requires no further proof of authenticity.

4) The party at whose instance the deposition is taken shall pay the fees of the witness and the charges of the recorder or stenographer for attending.

h) Expert or Opinion Witnesses

When requested by interrogatories served, all parties are under a duty to disclose the identity of opinion witnesses, and to further disclose the subject matter of any intended testimony of these witnesses.

i) Each different type of discovery sought shall be by a separate document, labeled accordingly. All discovery requests shall be served upon the litigator assigned to the case or the petitioner or the petitioner's attorney depending on who is making the request. Copies of discovery requests or demands shall be provided to the presiding ALJ.

j) Hearings shall not be delayed to permit discovery unless due diligence is shown by the party seeking the discovery.

k) Supplementation of Responses

A party that has responded to a request for discovery with a response that was complete when made is under no duty to supplement their response to include information thereafter acquired, except as follows:

1) A party is under a duty to timely supplement their response with respect to any question directly addressed to:

A) The identity and location of persons having knowledge of discoverable matters; and

B) The identity of each person expected to be called as an expert witness at the hearing, the subject matter on which the person is expected to testify, and the substance of the person's testimony.

2) A party is under a duty to timely amend a prior response if the party later obtains information upon the basis of which:

A) The party knows the response was incorrect when made; or

B) The party knows that the response though correct when made is no longer true and that a failure to amend the response is in substance a knowing concealment.

3) A duty to supplement responses may be imposed by order of the ALJ or agreement of the parties.

l) Stipulations

If the parties stipulate, depositions and discovery may take place before any person, for any purpose, at any time or place, and in any manner.

(Source: Amended at 47 Ill. Reg. 13886, effective September 18, 2023)