**Section 150.100 Conduct of Hearings**

a) All hearings conducted in any proceeding shall be open to the public.

b) The Hearing Officer shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any party, to examine witnesses, and to rule upon the admissibility of testimony and evidence.

c) The rules of evidence shall be as authorized by Section 10-40(a) of the Illinois Administrative Procedure Act [5 ILCS 100/10-40(a)].

d) Official notice will be taken as authorized by Section 10-40(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-40(c)].

e) Upon written request made, at least ten business days prior to the hearing, a party shall furnish to other parties a list of the names and addresses of prospective witnesses, and/or furnish written answers to a written demand for a bill of particulars.

f) Any party or his representative shall have the right, upon written motion made at least ten business days prior to the hearing, to inspect any relevant documents in the possession of or under the control of any other party and to interview parties or persons having knowledge of relevant facts, subject to any statutory or constitutional privileges. Interviews of persons and inspection of documents shall be at times and places reasonable for the person and for the custodian of the document. Discovery depositions are not authorized, required or permitted in these administrative hearings.

g) Oral evidence shall be taken only on oath or affirmation.

h) Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing.

i) Each party shall have the right to request the subpoena of and to call and to examine witnesses; to introduce exhibits and to cross-examine witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examination. Application to the Hearing Officer assigned for subpoenas duces tecum shall specify the books, papers, and documents desired to be produced.

j) 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 or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.

k) Upon the opening of the hearing, the Hearing Officer shall allow the parties to make opening statements. Opening statements may be reserved by a party until the start of that party's case. Upon the close of the hearing each party may make a closing statement orally and/or by written brief at the discretion of the Hearing Officer, incorporating arguments of fact and law. A written brief will be required when the facts and issues are deemed complicated by the Hearing Officer, and there is a need for parties to plead their cases in writing for the record.

l) In the hearing of any case, any party or his agent may be called and examined as if under cross-examination at the instance of any adverse party. The party calling for the examination is not bound thereby, but may rebut the testimony thus given by counter-testimony and may impeach the witness by proof of prior inconsistent statements. If the Hearing Officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling him as if under cross-examination. The party calling an occurrence witness may, upon showing that he called the witness in good faith but is surprised by his testimony, impeach the witness by proof of prior inconsistent statements.

m) Each party shall have the right to rebut the evidence against him; to appear in person; and to be represented by counsel. If a party does not testify in his own behalf, he or she may be called by the Secretary of State's representative and examined as if under cross-examination, but shall not be compelled to incriminate himself or herself.

n) Upon order of the Hearing Officer and upon at least five business days notice to other parties, any party, including the Department, may cause at his or its expense, a deposition of any witness to be taken for use as evidence in a contested case, when the witness is not available, for example, due to distance, time, cost to the party using the testimony, sickness, infirmity, imprisonment, the witness being out of state or similar factors. The deposition shall be taken in the manner provided by law for evidence depositions in civil actions in the Circuit Courts of Illinois. Any party may direct written interrogatories to any other party. Interrogatories must be restricted to the subject matter of the case, to avoid undue detail, and to avoid the imposition of any unnecessary burden or expense on the answering party. Written interrogatories shall be served on the opposing party no later than 15 business days before the hearing. Objection to answers or refusals to answer shall be heard on motion at the hearing before the Hearing Officer who shall rule on the objection or refusal. Answers shall be sworn. If an answer to an interrogatory may be obtained from documents in the possession or control of the party on whom the interrogatories were served, it shall be a sufficient answer to specify the documents and make them available to the inquiring party to inspect and copy at the asking party's expense.

o) At the request of any party or upon his own motion in a complicated case, the Hearing Officer will call a prehearing conference. At the conference, the parties, or their representatives shall appear as the Hearing Officer directs to consider:

1) The simplification of the issues;

2) Amendments to the grounds for action;

3) The possibility of obtaining admissions and stipulations of fact and of documents which will avoid unnecessary proof;

4) The limitation of the number of expert witnesses;

5) Any other matters which may aid in the disposition of the contested case.

p) Upon the conclusion of a prehearing conference, the Hearing Officer shall enter an order which recites any action taken, any agreements made by the parties as to any of the matters considered, and the issues to be heard.

q) The burden of proof is upon the applicant for any relief in a hearing. The standard of proof is the preponderance of the evidence.

r) All exhibits for any party shall be clearly marked for identification and as admitted into evidence by the Hearing Officer.

s) Report of Proceedings.

1) The Department shall, at its expense, have present at each hearing, an electronic recording device or a qualified court reporter, for the purpose of making a permanent and complete report of the proceedings, to-wit: evidence admitted or tendered and not admitted, testimony, offer of proof, objections, remarks of the Hearing Officer and of parties and/or their representatives, and all rulings of the Hearing Officer.

2) Upon request and at his own expense any party may have a copy of said report of proceedings, from said court reporter, or transcribed from the electronic device by the Department at the statutory rate as set forth in 805 ILCS 5.

t) A request for continuance of a hearing is directed to the sound discretion of the Hearing Officer to whom the case has been assigned for hearing. Such continuance will be granted, for good cause shown, provided the request is received by the Department and other parties not less than five days prior to the hearing date unless good cause is shown during the hearing for a continuance due to the need for new evidence, sudden unavailability of counsel, sudden illness of a party, or similar reasons. Such request shall be in writing and shall set forth the grounds alleged therefor. Oral requests for continuances shall not be granted unless made during the hearing for good cause. "Good cause" is shown when a Petitioner or Respondent demonstrates a real and compelling need for additional time. "A real and compelling need" includes, but is not limited to, service in the armed forces or serious illness, relating to either party or that party's attorney.

u) No formal hearing shall be continued "generally". A continuance, when granted, shall state a date certain, not more than sixty (60) days from the prior hearing date at which time the hearing shall reconvene.

(Source: Amended at 20 Ill. Reg. 7026, effective May 8, 1996)