**Section 125.252 Scope of Preliminary Hearing – Procedures – Evidence**

The closed preliminary hearing is not an adjudication, but shall be an inquiry to elicit evidence on whether the complaint was filed on justifiable grounds and has some basis in fact and law.

a) The closed preliminary hearing shall be conducted by the Hearing Officer.

b) The Hearing Officer shall record the proceedings and make a copy of the recording available to either party upon request. A party may record the proceedings by employing his or her own court reporter or otherwise recording the hearing.

c) The closed preliminary hearing need not be strictly adversarial in nature.

1) Any person offering evidence, written or oral, shall affirm to the Hearing Officer that his or her evidence is true to the best of his or her information and belief;

2) Evidence may be submitted in narrative form;

3) The Hearing Officer shall not be bound to follow rules of evidence acceptable in an Illinois court of record, but may admit and rely upon for his or her recommendation evidence or information of a type commonly relied upon by reasonably prudent men in the conduct of their affairs, as provided by Section 10-40(a) of the Illinois Administrative Procedure Act [5 ILCS 100/10-40(a)];

4) The complainant bears the burden of introducing evidence or information sufficient under subsection (c)(3) for the Board to conclude that the complaint has been filed on justifiable grounds;

5) The complainant will ordinarily present evidence or information supporting the complaint first in order. The complainant will present his or her case first, except when convenience to the Hearing Officer or the respondent requires the respondent to proceed first. The consent, in such cases, of the complainant will be required. The respondent may then present any information or evidence; and

6) The Hearing Officer may ask the complainant or respondent any questions relevant to the charges of the complaint. Any question is relevant if it has the possibility of eliciting an answer that tends to make the ultimate fact of justifiable grounds more or less likely.

d) At the close of the hearing, the Hearing Officer shall summarize the content of the hearing and his or her conclusions concerning the evidence and information represented and draft a recommendation to the Board addressing whether the complaint was filed on justifiable grounds. The Hearing Officer shall also attach to the recommendation any documents tendered to the Board during the hearing, and submit his or her recommendation to the Board for their consideration. The Hearing Officer shall send a copy to the General Counsel, as well as to the complainant and the respondent and their designated representatives.

e) The Hearing Officer shall have no authority to rule on any questions of law raised by the complainant or respondent, but shall note in the recommendation all such matters for the Board's disposition.

f) At any time before the Hearing Officer submits the recommendation, the complainant and respondent may settle the matters between them, subject to the approval of the Board. If the Board or a member of its staff is the complainant, the Hearing Officer shall have the authority to enter into a stipulation for settlement pursuant to Section 125.254, subject to Board approval.

g) No additional evidence shall be considered by the Hearing Officer after the conclusion of the closed preliminary hearing.

(Source: Amended at 42 Ill. Reg. 5004, effective February 28, 2018)