**Section 2605.260 Motions**

a) Motions, unless made during a Hearing, shall be in writing, shall specify the relief and/or order sought, and shall be served on all parties and filed with the Department. Motions are limited to the following:

1) To request dismissal of a Petition for Hearing or a Notice of Charges for failure to comply with Section 2605.80 or failure to state a claim upon which relief can be granted.

2) To request sanctions in accordance with Section 2605.240 or 2605.270.

3) To request dismissal of a Petition for Hearing when the Petitioner's case has been concluded without sufficient evidence having been presented to form the basis for a recommendation that the Department reverse its findings, determinations, or conclusions.

4) To request dismissal of a Notice of Charges when the Department's case has been concluded without sufficient evidence having been presented to form a basis for the relief requested by the Department.

5) To request a continuance, or extension of time to comply with any provision of this Part.

6) To request an order granting a rehearing or additional Hearings.

7) To request an order that the Hearing Officer reconsider the Proposal for Decision.

8) To request that the Director or Hearing Officer deem a failure to file an answer conforming to Section 2605.180 to be an admission of the truth of the allegations contained in the Petition for Hearing or Notice of Charges.

9) To request recusal of the Hearing Officer in accordance with Section 2605.220.

10) To request that the Hearing Officer issue an order requiring a party to appear at any case management Hearing, prehearing conference, or formal Hearing, or to be held in default.

11) To request that an order be vacated or modified.

12) To request a case management or prehearing conference.

13) To request consolidation or severance of cases in accordance with Section 2605.190.

14) To request summary judgment if the pleadings and any evidence on file, together with any supporting affidavits, shows that there is no genuine issue of any material fact and that the moving party is entitled to a judgment as a matter of law.

15) To request that certain evidence or witnesses be excluded from a Hearing.

16) To request that certain evidence be stricken from the record.

b) When any motion is filed, the opposing party has 28 days, or such other period as the Hearing Officer may prescribe, to file a written response setting forth the arguments, authorities relied upon, and affidavits or other supporting evidence. The moving party shall have 14 days, or such other period as the Hearing Officer may prescribe, to file a written reply. When any oral motion is presented during a Hearing, the opposing party may respond at that Hearing or request leave to file a written response within the same time periods as set forth in this Section. If no response is filed or orally presented, the opposing party's right to object will be deemed waived. Any dispositive motion that disposes of all claims or all parties in the action that is granted shall be part of the Administrative Record and shall be treated as a Final Decision pursuant to Section 2605.410 for purposes of appeal.

c) The Hearing Officer may allow oral argument, if it is deemed necessary for a fuller understanding of the issues presented, and is authorized to question either party. When facts are alleged in support of a motion that are not a part of the record in the case, an affidavit shall be attached to the motion setting forth those facts. A written motion shall be disposed of by written order and notice to all parties.

d) The Hearing Officer shall rule upon all motions properly presented within a reasonable time. All motions and corresponding orders shall be part of the Administrative Record.

e) Unless otherwise ordered, the filing of a motion or response shall not stay the proceeding or extend the time for the performance of any act.

f) Before granting any dispositive motion, the Hearing Officer may first afford the party an opportunity to cure defects in pleading or proof, and the ruling shall be made part of the Administrative Record in accordance with Section 10-35 of the IAPA.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)