**Section 5300.210 Subpoenas**

a) Issuance

1) Subpoenas shall be issued by a Commissioner to compel the attendance of a witness or the production of books, payrolls, records, correspondence, documents, papers or other evidence under the following circumstances:

A) At the instance of the Department to facilitate its investigation of a charge; or

B) At the instance of a party to the proceedings, in connection with a hearing convened pursuant to this Part; or

C) At the instance of a party to the proceedings, solely to obtain the production of books, payrolls, records, correspondence, documents, papers or other evidence from non-parties in anticipation of a hearing convened pursuant to this Part. Subpoenas issued in anticipation of a hearing may issue at any time subsequent to the time all respondents have answered the complaint or are required to answer the complaint and not prior to that time, except by agreement of the parties or with leave of the Administrative Law Judge. This Section does not confer a right on a party to take a deposition of any person.

2) Blank subpoenas may be obtained for use pursuant to this subsection by applying to the Executive Director. The applicant shall specify the charge or complaint for which the subpoena is to be used and the type of subpoena requested.

b) Witness and Mileage Fees – The cost of service and witness and mileage fees shall be borne by the person requesting the subpoena. Witness and mileage fees shall be the same as are paid witnesses in the circuit courts of the State of Illinois, as set forth in Section 4.3 of the Circuit Courts Act [705 ILCS 35/4.3].

c) Service and Contents – The person requesting a subpoena shall be responsible for its service on the subpoenaed person by personal service, by registered or certified mail or by leaving a copy at the principal office or place of business of a subpoenaed corporation or partnership. A subpoena shall be served reasonably in advance of its return date. The subpoena shall state the name and address of the person initiating its issuance, and shall identify the person or evidence subpoenaed and the person to whom, the place at which, and the date and time when it is returnable. The person requesting the subpoena shall also serve a copy of the subpoena upon all parties of record. Service of the copy of the subpoena on the parties may be by first-class mail.

d) Petition to Quash or Modify – Within 5 days after service of a subpoena on any person and service of copies of the subpoena on the parties, the person or any party may file a petition to quash or modify the subpoena, stating reasons in support of the relief. The petition shall be filed with the Commission in the case of a subpoena issued during the Department's investigation of any matter, and with the Administrative Law Judge in the case of a subpoena issued in connection with, or in anticipation of, a hearing before the Judge. A copy of the petition shall be served at the same time on the person serving the subpoena. Within 5days after service of the petition, or within any longer period that the Commission or a 3 member panel or the Administrative Law Judge may order, the serving party may file an answering statement to the petition. A hearing may be held in such a dispute at the discretion of the Commission or Administrative Law Judge. When a petition is properly filed with the Commission, the Commission may refer the question to an Administrative Law Judge for hearing, but the final decision will be by the Commission. Whenever a petition to quash a subpoena is properly filed under this Section, the petitioner shall not be required to respond to the subpoena until the petition has been ruled upon.

e) Enforcement – Whenever any person shall knowingly fail or refuse to comply with a subpoena served in accordance with this Section, the Commission, at the instance of the person serving the subpoena, shall petition the appropriate circuit court pursuant to Section 8-104(E) of the Act for an order enforcing the subpoena.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)