**Section 508.120 Subpoenas**

a) The administrative law judge may issue a subpoena to compel the attendance of a witness or the production of documents when such witness or such documents contain relevant evidence but the evidence is not being presented by the party, witness or holder of the document. A party may also request the administrative law judge to issue a subpoena to compel the attendance of a witness or the production of documents. The request shall be either in writing or on the record and shall:

1) Identify the witness or document sought; and

2) State the facts that will be proven by each witness or document sought.

b) The administrative law judge shall grant or deny the request, either in writing or on the record. If the request for a subpoena is granted, the administrative law judge shall, if necessary, reschedule the hearing to a specific date. The request for a subpoena shall be denied only if the administrative law judge finds that the evidence sought is immaterial, irrelevant or cumulative. If the request for subpoena is denied, the administrative law judge shall proceed to conduct the hearing, and the specific reasons for denial of the request for subpoena shall be made part of the record of the appeal.

c) If a witness fails to obey a subpoena, the party seeking enforcement of the subpoena shall prepare application to the circuit court of the county in which the subpoenaed witness resides requesting enforcement of the subpoena, and shall present the application to the administrative law judge. If satisfied that the subpoena was properly served and that the application is in proper form, the administrative law judge shall sign the subpoena, or the attorney of the party seeking the subpoena may then file and prosecute the application to the circuit court. In such instance, that matter shall be continued pending the outcome of enforcement of the subpoena.

d) The witness fee for attendance and travel shall be the same as the fee of witnesses before the circuit courts of this State. When a witness is subpoenaed by the administrative law judge upon his or her own motion or upon the request of the Department, the witness fee shall be paid in the same manner as other expenses of the Department.