



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5172

Introduced 2/9/2024, by Rep. Theresa Mah, Dagmara Avelar and Barbara Hernandez

SYNOPSIS AS INTRODUCED:

5 ILCS 100/10-10	from Ch. 127, par. 1010-10
5 ILCS 100/10-25	from Ch. 127, par. 1010-25
5 ILCS 100/10-25.1 new	
5 ILCS 100/10-70	from Ch. 127, par. 1010-70

Amends the Illinois Administrative Procedure Act. Specifies that the notice in contested case hearings must include an enclosure that notifies the recipient of the ability to request interpretive assistance for the hearing and to receive language assistance in translating the contents of the notice. Provides that an administrative law judge has the duty to inquire and determine whether a self-represented litigant or witness in a hearing needs interpretive assistance to participate in or understand the hearing. Authorizes any self-represented litigant, witness, or indigent person to request, at any time during the course of a hearing, interpretive assistance needed to participate in or understand the hearing. Provides that, if interpretive assistance is requested by a self-represented litigant, a witness, or an indigent person or if interpretive assistance is determined to be necessary by the administrative law judge, the administrative agency must appoint a foreign language interpreter at no cost to the person in need of the assistance for use in a substantive hearing. Authorizes an administrative agency to provide interpretive assistance during a nonsubstantive hearing through use of an interpreter who is not a foreign language interpreter, provided the administrative law judge examines the interpreter for competency for the purposes of the nonsubstantive hearing. Requires all persons appointed to provide interpretive assistance in substantive and nonsubstantive hearings to make certain affirmations. Contains provisions concerning waiver of these language assistance provisions.

LRB103 38136 MXP 68268 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Sections 10-10, 10-25, and 10-70 and by
6 adding Section 10-25.1 as follows:

7 (5 ILCS 100/10-10) (from Ch. 127, par. 1010-10)

8 Sec. 10-10. Components of rules. All agency rules
9 establishing procedures for contested cases shall at a minimum
10 comply with the provisions of this Article 10. In addition,
11 agency rules establishing procedures may include, but need not
12 be limited to, the following components: pre-hearing
13 conferences, representation interview or deposition
14 procedures, default procedures, selection of administrative
15 law judges, the form of the final order, the standard of proof
16 used, which agency official makes the final decision,
17 representation of parties, procedures for requesting and
18 receiving language assistance, subpoena request procedures,
19 discovery and protective order procedures, and any review or
20 appeal process within the agency.

21 (Source: P.A. 87-823.)

22 (5 ILCS 100/10-25) (from Ch. 127, par. 1010-25)

1 Sec. 10-25. Contested cases; notice; hearing.

2 (a) In a contested case, all parties shall be afforded an
3 opportunity for a hearing after reasonable notice. The notice
4 shall be served personally, by certified or registered mail,
5 by email as provided by Section 10-75, or as otherwise
6 provided by law upon the parties or their agents appointed to
7 receive service of process and shall include the following:

8 (1) A statement of the time, place, and nature of the
9 hearing.

10 (2) A statement of the legal authority and
11 jurisdiction under which the hearing is to be held.

12 (3) A reference to the particular Sections of the
13 substantive and procedural statutes and rules involved.

14 (4) Except where a more detailed statement is
15 otherwise provided for by law, a short and plain statement
16 of the matters asserted, the consequences of a failure to
17 respond, and the official file or other reference number.

18 (5) To the extent such information is available, the
19 names, phone numbers, email addresses, and mailing
20 addresses of the administrative law judge or designated
21 agency contact, the parties, and all other persons to whom
22 the agency gives notice of the hearing unless otherwise
23 confidential by law.

24 (6) An enclosure written in, at a minimum, English,
25 Arabic, Cantonese, Gujarati, Korean, Mandarin, Polish,
26 Russian, Spanish, Tagalog, Urdu, Ukrainian, and

1 Vietnamese, which notifies the recipient of the ability to
2 request interpretive assistance for the hearing and to
3 receive language assistance in translating the contents of
4 the notice. A request to receive a written or sight
5 translation of the notice must be made within 7 days of
6 service of the notice.

7 (b) An opportunity shall be afforded all parties to be
8 represented by legal counsel and to respond and present
9 evidence and argument.

10 (c) Unless precluded by law, disposition may be made of
11 any contested case by stipulation, agreed settlement, consent
12 order, or default.

13 (Source: P.A. 100-880, eff. 1-1-19; 101-81, eff. 7-12-19.)

14 (5 ILCS 100/10-25.1 new)

15 Sec. 10-25.1. Language assistance.

16 (a) As used in this Article:

17 "Foreign language interpreter" means a person who is
18 fluent in both English and another language, who listens to a
19 communication in one language and orally converts it into
20 another language while retaining the same meaning, and who
21 either (i) has satisfied the certification requirement set
22 forth in Section 8a.2 of the Personnel Code or (ii) has been
23 contracted with by the State or an agency to provide
24 interpretive assistance in administrative hearings. A foreign
25 language interpreter need not be physically present to provide

1 interpretive assistance.

2 "Indigent person" has the meaning given in subdivision
3 (a) (2) of Section 5-105 of the Code of Civil Procedure.

4 "Interpretive assistance" means services that involve
5 listening to a communication in one language and orally
6 converting that communication into another language while
7 retaining the same meaning.

8 "Language assistance" means a written translation from a
9 translator or a sight translation or interpretive assistance
10 from a foreign language interpreter.

11 "Nonsubstantive hearing" means a hearing to discuss
12 hearing rules, hearing processes, hearing procedures, and
13 hearing scheduling. A hearing in which a substantive ruling is
14 made is not a nonsubstantive hearing.

15 "Sight translation" means the conversion of written text
16 in one language into another spoken language.

17 "Substantive hearing" means a hearing in which a
18 substantive ruling may be made. "Substantive hearing" includes
19 a prehearing conference or formal hearing in which testimony
20 or evidence is being taken.

21 "Substantive ruling" means a ruling that directly relates
22 to the merits of the case and does not include explanation of
23 hearing rules, hearing processes, hearing procedures, or
24 hearing scheduling.

25 "Translator" means a person who converts written text from
26 one language into written text in another language.

1 "Written translation" means a conversion of written text
2 from one language into written text in another language.

3 (b) An administrative law judge has the duty to inquire
4 and determine if a self-represented litigant or witness in a
5 hearing needs interpretive assistance to participate in or
6 understand the hearing. The fact that an individual for whom
7 English is a second language knows some English should not
8 prohibit that individual from being allowed to receive
9 interpretive assistance from a foreign language interpreter.
10 The administrative law judge shall examine each individual
11 believed to be in need of interpretive assistance, and the
12 conclusion of the administrative law judge regarding the need
13 for interpretive assistance must be stated in the record.

14 (c) Any self-represented litigant, witness, or indigent
15 person has the right to request interpretive assistance to
16 participate in or understand a hearing at any time during the
17 course of the hearing. An agency may adopt rules for
18 determining whether a person is an indigent person.

19 (d) If interpretive assistance is requested by a
20 self-represented litigant, a witness, or an indigent person or
21 if interpretive assistance is determined to be necessary by
22 the administrative law judge, the agency must appoint a
23 foreign language interpreter at no cost to the person in need
24 of the assistance for use in a substantive hearing. If it
25 appears that interpretive assistance is needed but a foreign
26 language interpreter is not available for the scheduled

1 substantive hearing, the administrative law judge shall
2 continue or postpone the hearing until appropriate services
3 can be provided. In a substantive hearing, an interpreter who
4 is not a foreign language interpreter should be appointed only
5 if the agency made reasonable efforts to obtain a foreign
6 language interpreter and one is not reasonably available. If
7 the agency appoints an interpreter who is not a foreign
8 language interpreter, the administrative law judge must
9 examine the interpreter to ensure the interpreter is competent
10 to interpret in the hearing, has proficiency in English and
11 the applicable foreign language, and does not present a
12 conflict of interest.

13 (e) An agency may provide interpretive assistance during a
14 nonsubstantive hearing by use of an interpreter who is not a
15 foreign language interpreter, provided the administrative law
16 judge examines the interpreter for competency for the purposes
17 of the non-substantive hearing.

18 (f) All persons appointed to provide interpretive
19 assistance in substantive and nonsubstantive hearings must
20 swear or affirm that they:

21 (1) will make a true interpretation in an
22 understandable manner to the person for whom the
23 interpreter has been appointed;

24 (2) will repeat the statements of the person in need
25 of interpretive assistance, in the English language, to
26 the best of the interpreter's ability;

1 (3) have not had any involvement in the issues of the
2 case before the hearing; and

3 (4) will not disclose privileged or confidential
4 communications to any person.

5 (g) If an appointed interpreter is not accurately
6 interpreting communications, the party or witness in need of
7 interpretive assistance, or that person's attorney or
8 authorized representative, if an authorized representative is
9 permitted under agency rules, may request the appointment of a
10 different interpreter, subject to the approval of the
11 administrative law judge.

12 (h) Nothing in this Section precludes an agency from
13 providing language assistance to a person that is not
14 self-represented or indigent or from establishing rules for
15 those persons to request and receive language assistance,
16 subject to agency discretion.

17 (5 ILCS 100/10-70) (from Ch. 127, par. 1010-70)

18 Sec. 10-70. Waiver.

19 (a) Compliance with any or all of the provisions of this
20 Act concerning contested cases may be waived by written
21 stipulation of all parties.

22 (b) To waive any of the provisions relating to language
23 assistance under Sections 10-25 and 10-25.1, the parties must
24 provide a signed written stipulation in both English and the
25 preferred language of the party in need of language

1 assistance.

2 (c) A written stipulation waiving the language assistance
3 provisions of Sections 10-25 and 10-25.1 of this Act may be
4 withdrawn by the party in need of language assistance at any
5 time. The withdrawal may be made by oral declaration at
6 hearing or in a written declaration. Following such a
7 withdrawal, the remainder of the proceeding must be conducted
8 in accordance with Sections 10-25 and 10-25.1.

9 (Source: P.A. 87-823.)