

1 TITLE 38: FINANCIAL INSTITUTIONS
2 CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
3
4 PART 100
5 HEARINGS BEFORE THE DIVISION OF BANKING AND DIVISION OF FINANCIAL
6 INSTITUTIONS
7

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43 AUTHORITY: Implementing and authorized by the Division of Banking Act [20 ILCS

44 3205/6(h)] and the Financial Institutions Act [20 ILCS 1205/6(a)].

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46 SOURCE: Adopted at 45 Ill. Reg. 12525, effective September 23, 2021; amended at 50 Ill. Reg.
47 _____, effective _____.

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49 **Section 100.10 Definitions**

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51 The following words and phrases have the meanings ascribed to them in this
52 Section unless the context clearly requires otherwise:

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54 "Applicable Act" means the Residential Mortgage License Act of 1987 [205 ILCS
55 635], the Student Loan Servicing Rights Act [110 ILCS 992], the Illinois Banking
56 Act [205 ILCS 5], the Electronic Fund Transfer Act [205 ILCS 616], the
57 Corporate Fiduciary Act [205 ILCS 620], the Illinois Bank Holding Company Act
58 of 1957 [205 ILCS 10], the Foreign Bank Representative Office Act [205 ILCS
59 650], the Pawnbroker Regulation Act of 2023 [205 ILCS ~~511510~~], the Foreign
60 Banking Office Act [205 ILCS 645], the Savings Bank Act [205 ILCS 205], the
61 Digital Assets and Consumer Protection Act [205 ILCS 731], the Digital Asset
62 Kiosks Act [205 ILCS 732], the Illinois Credit Union Act [205 ILCS 305], the
63 Financial Institutions Code [20 ILCS 1205], the Title Insurance Act [215 ILCS
64 155], the Currency Exchange Act [205 ILCS 405], the Transmitters of Money Act
65 [205 ILCS 657], the Uniform Money Transmission Modernization Act [205 ILCS
66 658], the Illinois Development Credit Corporation Act [805 ILCS 35], the Illinois
67 Financial Services Development Act [205 ILCS 675], the Consumer Installment
68 Loan Act [205 ILCS 670], the Payday Loan Reform Act [815 ILCS 122], the
69 Sales Finance Agency Act [205 ILCS 660], the Debt Management Services Act
70 [205 ILCS 665], the Debt Settlement Consumer Protection Act [225 ILCS 429],
71 the Safety Deposit License Act [240 ILCS 5], the Interest Act [815 ILCS 205], the
72 Consumer Legal Funding Act [815 ILCS 121], and any other statute under the
73 jurisdiction of the Director.

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75 "Administrative Decision" means an order, fine, revocation or suspension of
76 licensure, or other regulatory action of the Director pursuant to an Applicable Act.

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78 "Administrative Law Judge" or "ALJ" means an attorney licensed to practice law
79 in the State of Illinois who has been designated by the Director to conduct any
80 Hearings. For these purposes, "Administrative Law Judge" has the same meaning
81 as "Hearing Officer."

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83 "Applicant" means a Party seeking a license, charter, certificate, permit, or similar
84 permission pursuant to an Applicable Act.

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86 "Department" means the Department of Financial and Professional Regulation.

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"Director" means the Director or Acting Director of the Division, with the authority delegated by the Secretary, or any person employed by or on behalf of the Department to whom the Director has delegated verbally or in writing authority to act on the Director's behalf.

"Division" means the Division of Banking or the Division of Financial Institutions within the Department, as the context indicates.

"Formal Hearing" means a formal proceeding that is conducted on the record before an Administrative Law Judge during which the Parties present evidence and make arguments regarding appropriate action on a contested matter.

"Hearing" means any hearing authorized to be held before an Administrative Law Judge, the Director, or the Secretary. "Hearing" does not include the Administrative Law Judge Reports, Orders of the Director, or any appeals under the Administrative Review Law.

"Indigent Person" has the meaning given in subdivision (a)(2) of Section 5-105 of the Code of Civil Procedure. [5 ILCS 100/10-25.1]

"Interpretive Assistance" means services that involve listening to a communication in one language and orally converting that communication into another language while retaining the same meaning. [5 ILCS 100/10-25.1]

"Licensee" means a person or entity licensed by the Division.

"Limited English Proficient Person" means someone who speaks a language other than English as their primary language and has a limited ability to read, write, speak, or understand English and requires the assistance of a foreign interpreter to effectively communicate in a legal proceeding. [5 ILCS 100/10-25.1]

"NMLS" shall mean the Nationwide Multistate Licensing System and Registry.

"Party" shall include, but not be limited to, Licensees, Applicants, and Unlicensed Persons, whether they are natural persons, corporations, partnerships, associations, cooperatives, trusts or other legal entities, and the Department.

"Petitioner" is a Party who, by written petition, seeks relief or licensure under an Applicable Act or an Administrative Decision of the Secretary or Director pursuant to an Applicable Act.

129 "Preliminary Hearing" means a proceeding that before an Administrative Law
130 Judge during which the ALJ sets a date on which all Parties expect to be prepared
131 to proceed with their cases and the ALJ rules on any preliminary motions that are
132 presented.

133
134 "Recordkeeper" means the persons or units designated by the Secretary or
135 Director to receive filings.

136
137 "Secretary" means the Secretary or Acting Secretary of the Department of
138 Financial and Professional Regulation or any person employed by or on behalf of
139 the Department to whom the Secretary has delegated verbally or in writing
140 authority to act on the Secretary's behalf.

141
142 "Unlicensed Person" means any person who is not a Licensee and who is not an
143 Applicant.

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145 (Source: Amended at 50 Ill. Reg. _____, effective _____)

146
147 **Section 100.15 Interpretive and Translational Assistance**

- 148
149 a) A self-represented litigant, a witness, or a litigant who is an indigent person has
150 the right to request interpretive assistance to participate in or understand any
151 formal proceeding conducted orally before an ALJ, and this person may make
152 such request at any time during the proceeding.
- 153
154 b) If no request for interpretive assistance is made throughout the formal proceeding
155 but the ALJ reasonably believes that the person is eligible to receive interpretive
156 assistance and is of limited English proficiency, the ALJ shall inquire if the
157 person needs assistance to participate or understand the proceeding.
- 158
159 c) The ALJ may require a person to provide reasonable information necessary to
160 determine whether the person is an indigent person for purposes of determining
161 availability of interpretive assistance. The ALJ shall determine whether, and the
162 manner in which, interpretive assistance will be provided. The decision of the
163 ALJ shall be made part of the record of the proceeding.
- 164
165 d) The Department shall provide interpretive assistance and do so in a manner
166 consistent with Section 10-25.1(c) of the Illinois Administrative Procedure Act, to
167 a self-represented litigant, a witness, or litigant who is an indigent person that
168 requests, or needs interpretive assistance in accordance with this Section. This
169 applies to a formal proceeding conducted orally before an ALJ and concerns
170 substantive issues other than those related to procedural rules, processes, or
171 scheduling.

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- e) The Department may provide interpretive assistance and do so in a manner consistent with Section 10-25.1(d) of the Illinois Administrative Procedure Act, to a self-represented litigant, a witness, or a litigant who is an indigent person that requests, or needs, interpretive assistance in accordance with this Section when the formal proceeding conducted orally before an ALJ concerns only procedural rules, processes, or scheduling.
- f) The ALJ shall ensure that all persons appointed to provide interpretive assistance pursuant to paragraph (d) or (e) of this Section comply with the requirements of Section 10-25.1(e) of the Illinois Administrative Procedure Act. The ALJ shall hear any requests for the appointment of a different interpreter in accordance with Section 10-25.1(f) of the Illinois Administrative Procedure Act.
- g) A request for interpretive assistance at a proceeding shall not be cause for delay, and if the requestor fails to appear at the hearing after requesting interpretive assistance, the request shall be deemed waived. If the requestor who fails to appear is the Petitioner or Respondent, the Department shall proceed pursuant to Section 100.100.
- h) Every initial notice for which a person is entitled to a hearing under the Applicable Act, shall include an enclosure written in, at a minimum, English, Arabic, Cantonese, Gujarati, Korean, Mandarin, Polish, Russian, Spanish, Tagalog, Urdu, Ukrainian, and Vietnamese, which notifies the recipient of the ability for a party or the recipient's agent to request interpretive assistance to participate in or understand the hearing and to receive language access services for translating the contents of the notice. For Cantonese and Mandarin languages interpretation will be provided in Simplified Chinese or Traditional Chinese.
- i) A request to receive a written or sight translation of the initial notice must be made within seven days after service of the notice. The request for translation shall be construed as a request for hearing. The requirement of filing an Answer pursuant to Section 100.120 of these Rules is stayed until a translation is provided.
- j) If a request for written or sight translation of the initial notice is not received by the Department within seven days after service of the notice, it shall be deemed a waiver of the right to translate the contents of the initial notice
- k) The Department need not provide interpretive assistance, sight translation, written translation, or other language access services to a person other than as stated in this Section, however nothing in Section 100.15 prevents the Department from providing such services within its discretion.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 100.30 Petition for Hearing

- a) A person or entity subject to an Administrative Decision may file a Petition for Hearing when the person or entity is entitled to a Hearing under the Applicable Act. A third-party person or entity that is not the subject of an Administrative Decision may file a Petition for Hearing when the third-party person or entity is entitled to a Hearing under the Applicable Act.
- b) A Petition for Hearing must be filed with the Recordkeeper within the time period required under the Applicable Act after service of an Administrative Decision upon the Petitioner. If the Applicable Act does not provide for this time period, then a Petition for Hearing must be filed with the Recordkeeper within 10 days after service of an Administrative Decision upon the Petitioner.
- c) In a case in which a Petitioner licensed under Article VII of the Residential Mortgage License Act of 1987 [205 ILCS 635/Art. VII] is contesting a fine, revocation, suspension, cease and desist, probation, refusal to renew a license or any other disciplinary action, the Petition for Hearing shall be in writing, signed by the Petitioner, and shall set forth the:
 - 1) Petitioner's license number, if applicable;
 - 2) Docket number of the Administrative Decision that resulted in discipline, if applicable; and
 - 3) Date of the contested Administrative Decision.
- d) In a case in which the Petitioner, as:
 - 1) an Applicant, seeks to contest an Administrative Decision to deny an application for licensure: or;
 - 2) an Unlicensed Person or Licensee of the Division of Banking or Division of Financial Institutions other than a Licensee subject to subsection 100.30(c), is contesting a fine, revocation, suspension, cease and desist, probation, refusal to renew a license or any other disciplinary action, the Petition for Hearing will be in writing, signed by the Petitioner, and will state with specificity the particular reasons why the Petitioner believes that the decision to deny licensure or impose other disciplinary action was incorrect.

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- e) Upon receipt by the Recordkeeper of a properly completed Petition for Hearing and completion of all the requirements of this Section and Section 100.200, a case will be docketed, and notice sent to the Petitioner setting forth the date, time, and place of the Hearing.

- f) A request to receive a written or sight translation of administrative decision made within seven days after service of the Administrative Decision by a self-represented Petitioner or a Petitioner who is an indigent person shall automatically be construed as a Petition for Hearing notwithstanding that the request does not comply with this Section. Within 20 days after service of written translation of the Administrative Decision or 20 days after the Department provides sight translation of the Administrative Decision, the Petitioner must file a Petition for Hearing that complies with this Section or the Petition for Hearing shall be deemed withdrawn and the Administrative Decision of the Department will become final.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 100.50 Form and Filing of Documents

- a) All documents filed or submitted to the Department in connection with a Hearing shall be typewritten on 8½ by 11-inch white paper or an electronic equivalent. The first page of each document shall set forth the names of the Parties and the docket number assigned to the case by the Department. Petitions for Hearing that are filed before a docket number is assigned shall contain a space for entry of the assigned number.

- b) All petitions, notices, answers, motions, responses, replies and other papers in the nature of a pleading shall be filed with and date stamped by the Recordkeeper. A copy of any motion, response, reply, or similar document shall also be provided to ~~the~~ all other Parties and/or all other Parties' counsel of record or the assigned Department counsel, as applicable.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 100.70 Notice of Preliminary Hearing

- a) The Notice of Preliminary Hearing shall include:
 - 1) *A statement of the time, place, and nature of the Preliminary Hearing;*

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- 2) *A statement of the legal authority and jurisdiction under which the Preliminary Hearing is to be held;*
 - 3) *A reference to the particular sections of the substantive and procedural statutes and rules involved;*
 - 4) *Except when a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or other reference number.*
 - 5) *To the extent such information is available, the names, phone numbers, email addresses, and mailing addresses of the Administrative Law Judge or designated agency contact, Parties, and all other persons to whom the agency gives notice of the Preliminary Hearing unless otherwise confidential by law. [5 ILCS 100/10-25(a)]*
 - 6) An enclosure written in, at a minimum, English, Arabic, Cantonese, Gujarati, Korean, Mandarin, Polish, Russian, Spanish, Tagalog, Urdu, Ukrainian, and Vietnamese, which notifies the recipient of the ability for a party or the recipient's agent to request interpretive assistance to participate in or understand the hearing and to receive language access services for translating the contents of the Notice of Preliminary Hearing. A request to receive a written or sight translation of the Notice of Preliminary Hearing must be made within seven days of service of the Notice of Preliminary Hearing.
 - 7) ~~6~~ A statement that the purpose of the Preliminary Hearing is to set a date on which all Parties expect to be prepared to proceed with their cases and to rule on any preliminary motions that are presented.
- b) Except as otherwise provided by law, the Petitioner will be given at least 20 days' notice prior to the first date set for the Preliminary Hearing or status call. Once notice is given, it will thereafter be the responsibility of the Petitioner to know subsequent Hearing or status call dates.
 - c) Nothing in this Section shall prevent the Department from scheduling a Formal Hearing without a Preliminary Hearing and with less than 20 days' notice when the Secretary or Director summarily or temporarily suspends or revokes any license under the Applicable Act, issues a temporary order, or when necessary to comply with applicable law.

- 341 d) Any contention that improper notice was given will be deemed waived unless it is
342 raised by the Petitioner prior to argument on any other motion or, if no other
343 motions are presented, prior to the commencement of opening statements.
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345 (Source: Amended at 50 Ill. Reg. _____, effective _____)
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347 **Section 100.90 Representation**
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- 349 a) A Party may be represented by an attorney who is licensed in Illinois or by an
350 attorney otherwise permitted by law to practice in the State. Attorneys who
351 appear in a representative capacity must file a written notice of appearance setting
352 forth:
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- 354 1) The name, address, email address, telephone number, and Supreme Court
355 registration number of the attorney;
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357 2) The name, address, and email address of the Party represented; and
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359 3) An affirmative statement indicating that the attorney is licensed in Illinois
360 or is appearing pro hac vice.
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- 362 b) An attorney may withdraw ~~their~~~~his or her~~ appearance as a representative only
363 upon filing a motion for leave to withdraw in writing~~written notice to the~~
364 ~~Department and the Party represented~~ stating the specific reasons for the
365 withdrawal and providing notice to all parties. The motion shall state the last
366 known address and email address of the party represented. The motion for
367 withdrawal may be denied by the ALJ if the granting of it would delay the trial of
368 the case or otherwise be inequitable. Upon entry of an order granting a motion for
369 withdrawal, the withdrawing attorney shall provide the client with a copy of all
370 orders and pleadings from the proceeding in their possession.
371

- 372 c) A law student licensed under Illinois Supreme Court Rule 711 may appear on
373 behalf of any Party as permitted by Illinois Supreme Court Rule 711 and shall be
374 subject to the same requirements as an attorney.
375

- 376 d) Attorneys admitted to practice in states or jurisdictions other than the State of
377 Illinois may appear and be heard in a specific Hearing pro hac vice as authorized
378 and in compliance with Illinois Supreme Court Rule 707. The attorney's
379 appearance shall include documentation as to ~~their~~~~his or her~~ eligibility or
380 qualification under Illinois Supreme Court Rule 707.
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- 382 e) Any individual may appear on ~~their~~~~his or her~~ own behalf.
383

- 384 f) A corporation, limited liability company, professional limited liability company,
385 or partnership must appear by legal counsel, licensed to practice in the State of
386 Illinois or appearing pro hac vice.
387
- 388 g) Once an appearance is filed, a copy of all future filings shall be served upon the
389 counsel of record, unless that counsel has withdrawn. In addition to that service,
390 a copy may be served on the Party represented.
391
- 392 h) The standard of conduct shall be the same as before the Courts of Illinois.
393 Attorneys appearing before the Department shall conform their conduct to the
394 Illinois Rules of Professional Conduct. In conforming their~~Any failure to behave~~
395 ~~in a manner consistent with those standards of~~ conduct ~~or this Part will authorize~~
396 ~~an ALJ to take the following actions:~~
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- 398 1) A person shall not engage in any conduct that brings disorder or disruption
399 to the courtroom or remote setting. Attorneys shall instruct their clients
400 and witnesses appearing in court or remotely of the proper conduct
401 expected and required in court or the remote setting and, to the best of
402 their ability, prevent their clients and witnesses from acting
403 inappropriately;
404
- 405 2) A person shall not knowingly misrepresent, mischaracterize, misquote or
406 miscite facts or authorities in any oral or written communication to the
407 court;
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- 409 3) A person shall not interrupt the court or opposing counsel, except when
410 necessary to make an effective objection;
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- 412 4) Unless specifically permitted or invited by the court, parties shall not send
413 copies of correspondence between themselves to the court. This does not
414 include transmission of courtesy copies of pleadings to the court; and
415
- 416 5) Parties shall notify the other party and the court at the earliest possible
417 time when hearings or conferences are to be canceled or postponed. Early
418 notice avoids unnecessary travel and expense and may enable to court to
419 use the previously reserved time for other matters.
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- 421 i) Any failure to behave in a manner consistent with those standards of conduct or
422 this Part will authorize an ALJ to take appropriate action, including, but not
423 limited to:
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- 425 1) Limitation of evidence;
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- 427 2) Substitution of written argument in place of oral argument;~~or~~
- 428
- 429 3) If warranted, report of an attorney's misbehavior to the Attorney
- 430 Registration and Disciplinary Commission of the Illinois Supreme Court;~~;~~
- 431
- 432 4) Exclusion of an attorney from the proceedings; or
- 433
- 434 5) Suspension or revocation of the attorney's right to appear before the
- 435 Administrative Law Judge.
- 436

437 ~~j)~~ If any of the actions authorized by subsection ~~(i)(h)~~ are taken by the ALJ, it shall

438 be done as a matter of record, and the ALJ shall state for the record the specific

439 reasons for the action.

441 ~~k)~~ A Party sanctioned under this Section may request the decision be reviewed by

442 the Director.

443

444 (Source: Amended at 50 Ill. Reg. _____, effective _____)

445

446 **Section 100.100 Failure to Appear**

447

448 a) Failure of the Petitioner, even if represented by an attorney, to appear at the time

449 and place set for the Formal Hearing may be deemed a waiver of the right to

450 present evidence or provide grounds for dismissal of the Petition for Hearing, as

451 reflected by order of the Administrative Law Judge. After presentation by the

452 Department of proof that the Petitioner was given proper notice and the

453 Department has been given an opportunity to present evidence, the ALJ shall

454 make their recommendation. If the Petition for Hearing is dismissed, the

455 contested Administrative Decision shall become final.

456

457 b) If a Respondent or Petitioner fails to appear at a hearing after requesting

458 interpretive assistance pursuant to Section 100.15, the request for interpretive

459 assistance shall be deemed waived.

460

461 (Source: Amended at 50 Ill. Reg. _____, effective _____)

462

463 **Section 100.120 Requirement of an Answer; Default**

464

465 a) In contested cases, the Petitioner shall file an Answer to the Notice of Preliminary

466 Hearing at least five days prior to the date of the Preliminary Hearing, unless

467 otherwise provided by law or this Section. The Answer shall be in writing, signed

468 by the Petitioner or ~~their~~his or her representative, and shall contain a specific

469 response to each allegation in the Administrative Decision. The response to each

470 allegation in the Complaint shall either admit or deny the allegation, or shall state
471 that the Petitioner has insufficient information to admit or deny the allegation.
472 Any Answer not conforming to the requirements of this Section may be stricken.
473

474 b) Any Answer that states that the Petitioner has insufficient information to admit or
475 deny the allegation shall be accompanied by an affidavit attesting to the truth of
476 this assertion.
477

478 c) If the Petitioner does not file an Answer conforming with the requirements of this
479 Section or otherwise does not file a responsive pleading, on motion by the
480 Department, the Administrative Law Judge will cause to be issued a Notice to
481 Plead or Be Held in Default. If, within 15 days after issuance of that notice, the
482 Petitioner does not file an Answer conforming with the requirements of this
483 Section or otherwise file a responsive pleading, the Petitioner will be held in
484 default and the allegations of the Administrative Decision will be deemed to have
485 been admitted. Even when an Answer has been filed~~In a like manner~~, if a
486 Petitioner fails to appear for any scheduled Hearing or proceeding without cause,
487 the Petitioner may be held in default and the allegations of the Administrative
488 Decision will be deemed to have been admitted.
489

490 d) An Answer is not required to be filed before the Preliminary Hearing if a request
491 is made to receive a written or sight translation of Notice of Preliminary Hearing
492 within seven days after service of the Notice of Preliminary Hearing by a self-
493 represented Petitioner or a Petitioner who is an indigent person. The
494 Administrative Law Judge may set the deadline for filing an Answer at the
495 Preliminary Hearing.
496

497 (Source: Amended at 50 Ill. Reg. _____, effective _____)
498

499 **Section 100.130 Discovery**
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501 a) Discovery shall not be the subject of motions presented to the ALJ, except when a
502 motion is made alleging failure to comply with this provision and requesting
503 appropriate relief.
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505 b) Upon a written request served on the opposing Party, or by order of the ALJ, a
506 Party shall be entitled to:
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508 1) The name and address of any witness who may be called to testify,
509 including identification of any witness to be offered as an expert;
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511 2) Copies of any document that may be offered as evidence;
512

- 513 3) A description of any other evidence that may be offered;
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515 4) With respect to a request from the Petitioner of sufficient particularity to
516 identify the evidence sought, nonprivileged and nonconfidential evidence
517 in the Department's possession that tends to support the Petitioner's
518 position or to demonstrate a potential conflict of interest of a Department
519 witness; and
520
521 5) With respect to a request from the Petitioner, a copy of any nonprivileged
522 and nonconfidential Division investigative report that purports to be a
523 memorandum of interview of the Petitioner.
524
- 525 c) The information listed in subsection (b) shall be provided within 30 days after
526 service of a request or as otherwise directed by an ALJ. In the event that the
527 Division withholds any responsive and relevant evidence asserted to be privileged
528 or confidential (see subsections (b)(4) and (b)(5)), the Division shall give notice
529 to the other Party that it is doing so and provide a general description of the
530 evidence withheld. Notwithstanding any provision of this Section, the other Party
531 may file a motion regarding the Division's withholding of evidence asserted to be
532 privileged or confidential.
533
- 534 d) Upon a written request served on the Petitioner, at any time after a Petition for
535 Hearing is filed, or at any stage of the Hearing, the Petitioner will be required to
536 produce documents, books, records, or other evidence that relate directly or
537 indirectly to the Petitioner's conduct at issue in the contested Administrative
538 Decision; provided, however, that nothing in this Section shall limit the
539 Secretary's or Director's powers to request, demand, or subpoena information or
540 testimony under applicable law.
541
- 542 e) Nothing in this Section shall prevent the Parties in a contested case from agreeing
543 to a mutual exchange of information that is more extensive than what is provided
544 for in this Section.
545
- 546 f) This provision will be construed to impose a continuing obligation upon the
547 Parties to exchange new information as it becomes available.
548
- 549 g) No depositions will be taken, interrogatories submitted~~proposed~~, or other
550 discovery mechanism used without the mutual agreement of the Parties, unless
551 provided for above. However, subject to privilege as applied in civil cases in the
552 circuit courts of this State and to grants of confidentiality under applicable law, a
553 Party may serve on any other Party a written request for the admission of
554 genuineness of any relevant document. The request shall be served and

555 responded to in the manner set forth by Illinois Supreme Court Rule 216. The
556 ALJ may provide additional time to respond for good cause.
557

- 558 h) Service of notice upon a Party's officers, directors or equivalent, employees, or
559 agents of the Division's intention to take the Party's testimony or the testimony of
560 any of its officers, directors or equivalent, employees, or agents at a Formal
561 Hearing is sufficient to require the Party or its officer, director or equivalent,
562 employee or agent's Party's attendance at the Formal Hearing at the Party's own
563 cost.
564
- 565 i) No file of a Division examiner, investigator, attorney, or any other employee shall
566 be subject to discovery, except as provided in subsection (b).
567

568 (Source: Amended at 50 Ill. Reg. _____, effective _____)
569

570 **Section 100.140 Subpoenas**

- 571
- 572 a) Upon request by the Petitioner, the~~The~~ Chief Administrative Law Judge, or their
573 designated ALJ, will issue subpoenas for the attendance of witnesses or
574 production of books, records, documents or other evidence; provided, however,
575 that nothing in this Section shall limit the Secretary's or Director's powers to
576 request, demand or, subpoena information or testimony under applicable law.
577
- 578 b) Any Petitioner seeking issuance of a subpoena shall submit a request in writing to
579 the Chief Administrative Law Judge and notify the assigned Department counsel
580 of the request. A proposed subpoena shall be attached to the request.
581
- 582 1)~~e)~~ The request shall set forth facts to demonstrate that the documents or
583 testimony sought are relevant to the case pending before the Division and
584 are not otherwise excludable by law or by rule.
585
- 586 2)~~d)~~ A request for subpoena may be denied if insufficient information is
587 provided in the request to make such a determination.
588
- 589 3) If the opposing party objects to any component of the subpoena request, a
590 written response specifying said objection(s) shall be filed within seven
591 days after the date the subpoena request was filed.
592
- 593 4) Upon refusal by an Administrative Law Judge to issue any subpoena, the
594 Respondent or Petitioner will be entitled to a hearing before another
595 Administrative Law Judge, to be conducted as a matter of record. The
596 Respondent or Petitioner shall be responsible for the court reporter's
597 attendance.

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c)e) Except for Division investigators and examiners who participated in the investigation of the case, the Chief Administrative Law Judge shall not generally issue subpoenas for the testimony of Department or Division officers or employees.

~~f) Upon refusal by an ALJ to issue any subpoena, the Petitioner will be entitled to a Hearing before another ALJ, to be conducted as a matter of record.~~

d)g) Service of subpoenas pursuant to this Section shall be done, and payment of witness fees and expenses after the appearance of the witness shall be calculated, in the same manner as prescribed by law in judicial proceedings in civil cases in circuit courts of this State.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 100.210 Documents

- a) Business records shall be admissible to the same extent they are admissible under the Illinois Administrative Procedure Actlaw.
- b) Any Party may prove the admissibility of business records by presentation of a sworn statement by an individual responsible for making or keeping those records.
- c) Any Party seeking introduction of a document will be allowed to offer a mechanical reproduction or photocopy of the original without any showing that the original is unavailable, upon representation of the Party or attorney that the copy is a fair and accurate copy of the original.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 100.250 Administrative Law Judge Reports and Orders of the Director

- a) In every contested case, except for defaults, the ALJ will file a written Report and Recommendation that contains Findings of Fact and Conclusions of Law with respect to the allegations contained in the Administrative Decision or Notice of Preliminary Hearing, unless the Parties reach an agreed disposition.
- b) When the recommendation is for discipline, the ALJ will include their specific recommendation as to type, duration, and/or amount.

- 640 c) After the ALJ forwards the report to the Secretary or Director, as applicable, all
641 Parties will receive a copy of the ALJ's report. Within 20 days after the ALJ's
642 report is sent to the Parties, either Party may request that a rehearing, or additional
643 Hearings, be ordered by the Secretary or Director, as applicable. A rehearing
644 shall be ordered by the Secretary or Director, as applicable, when the Secretary or
645 Director determines that substantial justice has not been done.
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- 647 d) When a rehearing or an additional Hearing is requested, the request shall be in the
648 form of a motion and shall state with specificity the reasons for the request. If it
649 is alleged that new evidence is available that was not available at the time of the
650 Hearing, the affidavit shall describe the new evidence and reasons why it was not
651 available for use at the Hearing. Any opposing Party may file a response, which
652 shall be filed within 20 days after the date the motion is filed, and, if it does so,
653 the requesting Party may reply, which shall be filed within 10 days after the
654 responding Party filing its response.
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- 656 e) After a motion for rehearing has been filed and a response and reply has been
657 filed or the time therefor has passed, the Secretary or Director, as applicable, shall
658 enter an Order ruling on any motion for rehearing. If the motion is denied, the
659 Secretary or Director, as applicable, in the same Order, shall further adopt, reject
660 or modify the Findings of Fact and Conclusions of Law of the ALJ, adopt or
661 reject the recommendation of the ALJ, and enter a decision.
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- 663 f) An Order of the Secretary or Director granting a rehearing is not a final order as
664 defined by the Administrative Review Law [735 ILCS 5/Art. III]. An Order of
665 the Secretary or Director denying a motion for rehearing and entering a decision
666 on the merits of the case is a final Order as defined by the Administrative Review
667 Law and is subject to judicial review.
668
- 669 g) The Secretary or Director, as applicable, will not consider motions to reconsider
670 or modify a final decision made or Order entered. The proper avenue of relief is
671 to file a complaint under the Administrative Review Law.
672
- 673 h) An Order imposing a summary or temporary suspension shall remain in effect
674 until a final order is entered on the merits, unless modified or stayed by the
675 Department. A final Order imposing discipline shall terminate the summary or
676 temporary suspension. If a final order finds no violation of the applicable Act or
677 if the Department withdraws its Order, the Order imposing a summary or
678 temporary suspension shall be vacated.
679

680 (Source: Amended at 50 Ill. Reg. _____, effective _____)