

TITLE 59: MENTAL HEALTH
CHAPTER III: GUARDIANSHIP AND ADVOCACY COMMISSION
PART 310
HUMAN RIGHTS AUTHORITY

Section

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AUTHORITY: Implementing and authorized by the Guardianship and Advocacy Act [20 ILCS 3955].

SOURCE: Adopted at 5 Ill. Reg. 13223, effective November 13, 1981; codified at 7 Ill. Reg. 12866; amended at 10 Ill. Reg. 7778, effective April 30, 1986; amended at 24 Ill. Reg. 13029, effective August 21, 2000; amended at 25 Ill. Reg. 5628, effective May 1, 2001; amended at 26 Ill. Reg. 8828, effective June 11, 2002; amended at 42 Ill. Reg. 2050, effective January 11, 2018; amended at 44 Ill. Reg. 1976, effective December 31, 2019; amended at 50 Ill. Reg. _____, effective _____.

Section 310.10 Authority and Purpose

- a) Authority
- The Human Rights Authority exists as a division of the Guardianship and Advocacy Commission created by the Guardianship and Advocacy Act [20 ILCS 3955] and shall consist of as many regional authorities as the Commission may see fit to appoint pursuant to Section 5(a) of the Act.
- b) Purpose
- Each regional authority shall investigate all nonfrivolous complaints within its authority and competence alleging that the rights of an eligible person have been violated and *may conduct investigations upon its own initiative if it has reason to believe the rights of a person have been violated* ~~(Section 16 of the Act)~~. For purposes of this Part, criteria for investigation will include, but not be limited to, violations of the Mental Health and Developmental Disabilities Code [405 ILCS

5], ~~the~~ Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110], ~~and the~~ Nursing Home Care Act [210 ILCS 45], Mental Treatment for Incarcerated Persons Act [405 ILCS 15], Specialized Living Centers Act [405 ILCS 25], Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705], Juvenile Court Act of 1987 [705 ILCS 405], Unified Code of Corrections [730 ILCS 5], and Youth Mental Health Protection Act [405 ILCS 48].

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

Section 310.20 General Provisions

a) Definitions of Terms – As used in this Part, unless the context requires otherwise:

"Act" means the Guardianship and Advocacy Act [20 ILCS 3955].

"Chairperson" means the Chairperson of a Regional Human Rights Authority.

"*Commission*" means the Guardianship and Advocacy Commission.

"Complainant" means any person or entity who files a complaint with an authority or member of an authority.

"Complaint" means any allegation that the rights of an eligible person have been or may have been violated which is initiated by or communicated to a regional authority ~~or member of an authority~~.

"Director" means the Director of the ~~Guardianship and Advocacy~~ Commission.

"Eligible Person" ~~"Eligible Person"~~ means an individual who has received, is receiving, has requested, or may be in need of mental health services, ~~or is a~~ person with a "developmental disability" ~~"developmentally disabled"~~ as defined in the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002(8)) ~~"Developmental Disabilities Services and Facilities Construction Act" (42 USC 6001(7))~~, ~~as now or hereafter amended~~, or any "person with one or more disabilities" as defined in the Rehabilitation of Persons with Disabilities Act ~~Disabled Persons Rehabilitation Act~~ [20 ILCS 2405].

"Frivolous" ~~"Frivolous"~~ means a factual allegation which, if true, has no legal consequence nor implies any violation of a right established by law.

"Guardian" means a ~~court~~ court-appointed guardian of the person or estate ~~conservator~~.

"HRA Committee" means the Commissioners appointed by the Chairperson of the Guardianship and Advocacy Commission to oversee the Human Rights Authority program and to propose HRA policy to the Commission.

"Personally Identifiable Data" means any record, document, paper, material, description or other information that discloses the identity of an eligible person or the person's~~his~~ family.

"Person" means an individual, corporation, partnership, association, unincorporated organization, sole proprietorship, limited liability company, or a government or any subdivision, agency, or instrumentality of that government;

"Program Director" means the person designated by the Director to coordinate the activities of all regional authorities.

"Regional Authority" means a regional Human Rights Authority.

"Regional Coordinator" means the person designated by the Program Director to assist a specific regional authority in its activities.

"Rights" includes but is not limited to all rights, benefits, and privileges guaranteed by law, the constitution of the State of Illinois, and the constitution of the United States.

"Service Provider" means any public or private facility, center, hospital, clinic, program, or any other person devoted in whole or in part to providing services to eligible persons.

"Services" includes examination, diagnosis, evaluation, treatment, care, training, psychotherapy, pharmaceuticals, after-care, habilitation, rehabilitation, and related activities provided for an eligible person.

b) Computation of Time

In computing any period of time prescribed in this Part, the date of the event from which such period begins to run shall not be included. If the last day of the period so computed shall fall on a Saturday, Sunday, or State holiday, the time period shall continue to run until the next day that is not a Saturday, Sunday or State holiday.

c) Severability

If~~In the event~~ any provision of this Part is determined by a court or other body of competent jurisdiction to be invalid, ~~that determination shall not affect the~~

remaining provisions ~~shall~~that continue in full force and effect.

d) Rules Exclusive

All procedures or activities employed by a regional authority in exercising its statutorily defined powers and duties shall be governed by this Part. No regional authority shall adopt policy unless approved by the Commission. The Commission ~~may~~shall disapprove, pursuant to Section 5(c) of the Act, any action taken by a regional authority contrary to the provisions of this Part.

e) Petition by a Regional Authority for Rule Change

A regional authority may request that the Commission promulgate, amend, or repeal a rule in this Part by submitting a written petition to the Program Director setting forth the particular rulemaking action desired and the reasons in support of that action. The Program Director shall forward, within 10 days, the petition, together with any observation or comments, to the Director ~~who and the HRA Committee that~~ shall, upon consideration, forward ~~its~~ recommendation on the petition to the Commission. Should the ~~Director HRA Committee decide to~~ propose to amend or adopt a rule, ~~the Director~~ it shall forward ~~the~~ its recommendation to the Chairperson of each regional authority at the same time it is sent to the Commission.

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

Section 310.30 Membership and Organization

a) Membership

Each regional authority shall consist of at least seven and no more than nine members appointed by the Director. All actions taken by the Director to appoint or remove members shall be reported to the Commission at the next scheduled Commission meeting. ~~Each regional authority shall consist of 9 members appointed by the Commission (Section 14 of the Act).~~

b) Duration of Term

Members of the regional authorities shall serve for a term of three years. No member shall serve for more than two consecutive three-year terms. ~~Members of the regional authorities shall serve for a term of 3 years. No member shall serve for more than 2 consecutive 3 year terms. (Section 14 of the Act)~~ After a one-year absence, if a vacancy occurs on a regional authority, the ~~Director~~ Commission may appoint a former member who satisfactorily served prior terms of appointment.

c) Removal of Member

- 1) The Director may remove any member of a regional authority for incompetence, neglect of duty, or malfeasance in office.~~The Commission on its own initiative may remove for incompetence, neglect of duty, or malfeasance in office any member of a regional authority. (Section 14 of the Act)~~
 - 2) A regional authority shall recommend to the Director~~Commission~~ the removal of one of its members if:
 - A) the regional authority has given written notice to the member of its intention to recommend removal and the reason for the removal;
~~and~~
 - B) the member is given an opportunity at the next regularly scheduled meeting of the authority to explain, either orally or in writing, why a recommendation of removal shall not be made;~~and~~
 - C) a majority vote of the regional authority members in attendance and constituting a quorum of the regional authority at a regularly scheduled or special meeting, for good cause shown, votes to recommend the member's removal; and
 - D) a written request for removal is made to the Director~~Commission~~ with a statement of the reasons for the removal, together with any explanation offered by the member to the members of the regional authority; a copy of the request shall also be forwarded to the member.
 - 3) A member who misses three~~3~~ consecutive meetings shall be notified by the regional authority that failure to attend the next meeting, unless for reasons beyond the member's control, may~~shall~~ result in a request for the member's removal.
- d) Vacancies
Vacancies in regional authorities shall be filled in the same manner as an original appointment.~~Vacancies in regional authorities shall be filled within 60 days after declaration of the vacancy in the same manner as original appointments (Section 14 of the Act).~~ A person appointed to fill a vacancy shall serve for the remainder of the unexpired term. If the remainder of the unexpired term is fewer~~less~~ than 23 months, the person shall be eligible for two~~2~~ additional three-year~~3-year~~ terms consecutive to the expiration of the unexpired term.
- e) Compensation

Members of the regional authorities shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties
~~Members of the regional authorities shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties (Section 14 of the Act)~~ in accordance with 80 Ill. Adm. Code 2800.

- f) Officers
 At its annual ~~June~~ meeting each regional authority shall elect a chairperson, vice-chairperson, ~~secretary~~ and any other officers it deems necessary. ~~Should circumstances arise to prevent holding the annual meeting in June, the annual meeting shall become the next immediate meeting held by the regional authority.~~
- g) Committees
~~A regional authority may establish such committees as it deems necessary to achieve its stated purpose.~~

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

Section 310.40 Meetings

- a) Annual Meeting
 The annual meeting of each regional authority shall convene in the final quarter of the fiscal year, i.e., April, May, and June, June for the purpose of electing officers and for any other business that may be brought before it. Should circumstances arise to prevent holding the annual meeting, the next immediate meeting held by the regional authority shall become the annual meeting.
- b) Regular Meetings
Each regional authority shall meet not less than once every two months~~Each regional authority shall meet not less than once every two months.~~
- c) Special Meetings
Meetings may also be held upon call of the Chairperson of the regional authority or upon written request of a majority of appointed members of the regional authority.~~Meetings may also be held upon call of the Regional Chairperson or upon written request of any five members of the Regional Authority.~~
- d) Quorum
A majority of appointed members shall constitute a quorum.~~Five members shall constitute a quorum. (Section 14 of the Act)~~
- e) Voting on Actions
 Except as provided in Section 310.50(c) and 310.70(c)(3) and (e), no action shall

be taken at any meeting of a regional authority except upon a majority vote of the members in attendance and constituting a quorum.

f) Notice

Each regional authority shall give public notice of its schedule of regular meetings at the beginning of each calendar year, including the dates, times, and places of meetings, if known. Public notice of any special meeting or reconvened regular meeting shall be given at least 48 hours before the meeting. However, this requirement of public notice of reconvened meetings does not apply to a meeting reconvened within 24 hours ~~or~~ when announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in agenda. Public notice shall be given by posting a copy of the notice at the Commission's offices located in Springfield and Chicago, ~~Illinois, and at the~~ regional authority's regional office, ~~and at~~ the building where the meeting is to be held. In addition, an authority shall provide notice of its meetings to any newspaper or radio or television station that requests notice.

g) Minutes

Minutes of each meeting shall be recorded by the secretary of the authority or designee and a copy retained by the ~~regional authority~~ ~~secretary~~. The minutes, except as provided by Section 310.80(d), shall be available within ~~seven, within 7~~ days after their approval, for public inspection at the Commission's offices located in Springfield and Chicago, ~~Illinois~~ and the regional authority's regional office.

h) Location of the Meeting Place

Each regional authority shall conduct meetings at locations within its regional boundaries so as to facilitate participation by the regional authority members and residents of the region.

i) Accessibility of Meeting Place

Each regional authority shall conduct its meetings at facilities that are accessible to individuals with disabilities ~~the mentally and physically impaired~~.

j) Public Comment

A portion of each meeting shall be set aside for comments or questions by nonmembers. The time for comments or questions shall be limited to five minutes per person unless additional time is allowed by the regional authority for good cause.

k) Open Meetings Act

The meetings of all regional authorities shall be conducted in compliance with the provisions of the Open Meetings Act [5 ILCS 120] governing meetings of State advisory boards or bodies that do not have authority to make binding

recommendations or determinations or to take any other substantive action and
the ~~Illinois Guardianship and Advocacy Act [20 ILCS 3955]~~.

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

Section 310.45 Attendance By Means Other Than Physical Presence

- a) A member of a regional authority may attend a closed meeting of the regional authority by video or audio conference, if available.
- b) A member of a regional authority may attend an open meeting of the regional authority by video or audio conference, if available, when the member is unable to physically attend because of personal illness or disability, reasons related to employment, other regional authority business, a family or other emergency, travel-related barriers to in-person attendance, inclement weather, or unexpected childcare obligations, provided that the member who wishes to attend the meeting by video or audio conference notifies the disability rights manager of the regional authority before the meeting or as soon as possible thereafter if advance notice is not practical.
- c) Any member attending a meeting by means other than physical presence as authorized by this Section is present for purposes of this Part.
- d) Nothing in this Section requires a regional authority to make video or audio conference capabilities available for its meetings.

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

Section 310.50 Complaints

- a) Recording Complaints
Every complaint received by a regional authority shall be recorded in the Human Rights Authority's database.
- b) Disposition of Complaints
 - 1) Acceptance
Except as provided in subsection (c), a decision to investigate a complaint shall be made upon the majority vote of the members in attendance and constituting a quorum at a regularly scheduled or special meeting.
 - 2) Non-Acceptance
If a regional authority determines that a complaint does not involve the

rights of an eligible person, ~~or that a complaint~~ is frivolous, or is beyond the scope of the regional authority's competence, the regional authority shall not open the investigation.

3) Postponement

- A) If the regional authority determines that its investigation of a complaint would jeopardize pending ~~employment~~, disciplinary, civil, or criminal proceedings, the regional authority's investigation shall be postponed until the proceeding is concluded.
- B) If the regional authority determines that a member has a conflict of interest ~~exists for~~ that may create the appearance of a conflict for the regional authority as a whole under Section 310.90(f), the regional authority's investigation shall be postponed until the Director ~~Commission~~ authorizes another regional authority to conduct the investigation pursuant to Section 310.60(b).

c) Emergency Complaints

If it appears necessary for the welfare or protection of the rights of an eligible person, a regional authority may conduct an investigation with the approval of the chairperson and two other members of the regional authority. A proposed investigation shall be presented for ratification by a majority vote of the members present and constituting a quorum at the next regularly scheduled or special meeting.

d) Notice to Complainant

A regional authority shall provide a written notice to the complainant that states:

- 1) a brief summary of the complaint and number assigned to it; and
- 2) that ~~whether~~ the regional authority will conduct an investigation; or
- 3) that ~~whether~~ the regional authority will not conduct an investigation; and the reasons for that decision.

e) Complainant's ~~Complainants~~ Confidentiality

The regional authority shall keep each complainant's name confidential from outside sources. If a member of the public or an outside agency requests the name of the complainant, the regional authority shall forward that request to the complainant who shall make the decision regarding disclosure.

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

Section 310.60 Investigations

a) Policy

All investigations instituted by a regional authority shall be conducted in a timely, thorough, and impartial manner ~~in order~~ to assess the action or omission complained of and, if appropriate, ~~to~~ make recommendations based upon that assessment.

b) Jurisdiction

Unless otherwise directed by the Director~~Upon recommendation of the Commission's HRA Committee and at a meeting of which Commissioners have received proper notification and with a quorum present, the Commission may vote to authorize a regional authority to initiate one or more investigations into alleged rights violations occurring outside its regional boundaries. In the absence of such express authorization,~~ a regional authority may conduct an investigation into the violations of an eligible person's rights only if the violation is alleged to have occurred within its regional boundaries.

c) Approved Investigatory Methods

A regional authority may invoke any ~~or all~~ of the following investigative tools:

1) Site visits~~Visits, if the service provider is given advance notice of the visit except when there is reason to believe evidence may be concealed or destroyed;~~

2) Interviews with any person, including in private~~relevant parties;~~

3) Analysis of pertinent information;

4) Public hearings; and~~Hearings;~~

5) Referral

~~A)~~ ~~Referral~~ to an appropriate federal, state, or local governmental unit ~~to undertake or to assist in the investigation.~~ Any relevant information obtained through such referral shall be included in the regional authority's final report.

~~B)~~ ~~The chairperson or regional authority member(s) assigned to a case may assign the regional coordinator to assist the member(s) in the investigation.~~

d) Hearings

A regional authority may conduct hearings and compel by subpoena the attendance and testimony of such witnesses and the production of such materials as are necessary or desirable for its investigation~~when it is necessary to compel testimony or the production of documents relevant to an investigation by persons, service providers or agencies who otherwise decline or when more time or resources would be expended to collect facts relevant to an investigation through the other investigatory methods specified in subsection (c) supra. The purpose of a public hearing is to obtain information; the regional authority shall not take any formal action at a public hearing.~~ Advance notice of hearings will be made to the Program Director within 24 hours after the regional authority makes the decision to hold a hearing.

1) Calling a Hearing

A hearing may be called ~~upon~~ only upon a majority vote of ~~a~~ the members in attendance and constituting a quorum at a regularly scheduled or special meeting.

2) Notice of Hearing

Notice shall be given of the date, time, location, and subject of the hearing in the same manner provided in Section 310.40(f) ~~of this Part.~~

3) Witnesses

A regional authority may request any person with relevant information ~~to~~ testify at a hearing.

A) Requesting or Requiring Witnesses to Appear

Witnesses shall be invited ~~either by telephone, letter or personal invitation~~ to attend. If the regional authority deems it appropriate ~~informal methods are unsuccessful or a majority of a quorum determines that insufficient time exists to employ informal methods,~~ then a witness may be subpoenaed pursuant to Section 310.60(f) of this Part.

B) Documents

A witness may be requested to bring ~~with him~~ any relevant documents that a regional authority would be entitled to inspect and copy~~provided that confidentiality requirements are met.~~

4) Conduct of Hearings

A) ~~Hearings~~

All hearings conducted by a regional authority shall be open to the

public except those parts of hearings at which the disclosure of information is contrary to Section 310.80 of this Part;

- B) The hearing shall be conducted by such ~~persons~~~~member or members~~ as the regional authority may designate;
- C) The hearing shall be conducted as an objective ~~and~~, informal ~~fact-finding~~, ~~fact finding~~ process;
- D) Any questioning of witnesses shall be conducted by the persons designated by the regional authority ~~members~~;
- E) Each witness shall have the right to be accompanied by a family member, friend, or other representative, including counsel if desired, who shall be permitted to advise and counsel the witness at any time;
- F) Each witness shall be permitted to make ~~an~~~~any~~ oral statement ~~he wishes~~ at the conclusion of the witness' ~~his~~ testimony within reasonable time limitations;
- G) Each witness shall be permitted to submit any type of written statement or document for the regional authority's consideration;
- H) Prior to a hearing, any person may request to be considered by the regional authority as a possible witness, or submit ~~his own name or the names~~~~name~~ of other persons having information relevant to the investigation to the regional authority for consideration as possible witnesses; however, ~~the decision as to who will be called as witnesses shall be in the sole discretion of the persons~~~~regional authority member or members thereof~~ designated to conduct the hearing shall have sole discretion to decide who will be called as witnesses;
- I) An accurate record, which may be taken by ~~tape~~-recording or other appropriate means, may be kept of the proceedings of any hearing. In any event, a summary or minutes of the proceedings shall be prepared and kept by the regional authority. Witnesses shall be provided transcripts of their testimony, if available, upon ~~Upon~~ written request to the chairperson of the regional authority, ~~a witness shall be furnished~~ at a reasonable charge ~~with a transcript of his testimony, if such transcript was made~~. The record need not be transcribed or printed, except as provided herein, unless the

regional authority shall so determine;

J) A~~The~~ witness may listen to any recording made of their testimony
~~the tape~~ at the regional authority's offices; or purchase a duplicate
recording~~tape~~ at cost;:-

K)~~J~~) Any decisions ~~to be made~~ as to the mode of proceeding not
covered by this Part ~~these Rules~~ shall be in the discretion of the
persons ~~the responsibility of the members~~ designated by the
regional authority to preside over ~~the such~~ hearing; and

L)~~K~~) All hearings shall be held in facilities accessible to persons with
disabilities~~the mentally and physically impaired~~.

e) Obtaining records

1) When conducting an investigation or monitoring issues concerning the
rights of an eligible person, a~~A~~ regional authority will first attempt to
obtain records containing data that identifies an eligible person~~persons~~
with the written authorization of a person entitled to inspect and copy the
eligible person's record~~person, his guardian or other legal representative~~.

2) If written authorizations are not secured, circumstances make obtaining
timely authorization impractical, or an insufficient number of records are
obtainable with written authorizations, then a regional authority shall
request the production of masked records as provided under Section 18 of
the Act and Section 8 of the Mental Health and Developmental Disability
Confidentiality Act unless personally identifiable information cannot be
removed without imposing an unreasonable burden.

3) If removing personally identifiable information from~~Only if masked~~
records in a manner that permits~~do not permit~~ the collection of facts
relevant to an investigation would impose an unreasonable burden, ~~will~~ a
regional authority may~~request to~~ inspect and copy records containing data
that identifies an eligible person without written authorization, so long as
the regional authority has notified, in writing, a person entitled to inspect
and copy the records:

A) that the regional authority is conducting an investigation or
monitoring an issue;

B) of the nature and purpose of the investigation or monitoring;

C) of the need to inspect and copy the records; and

D) the person notified has not objected after notice has been sent.

4) If a service provider contends that removing personally identifiable information from records would be unreasonably burdensome, then the service provider shall provide to a regional authority the name, address, and any other contact information it possesses for any person entitled to this notice~~as allowed under Section 18 of the Act and Section 8 of the Mental Health and Developmental Disabilities Confidentiality Act.~~

f) Subpoenas

A regional authority may compel by subpoena a witness' attendance when informal attempts to obtain such attendance are unsuccessful or impractical as set forth in Section 310.60(d)(3)(A) of this Part. All subpoenas shall be prepared by the Commission's General Counsel or ~~their~~^{his} designee to ensure proper legal form.

1) Subpoena Duces Tecum

Any subpoena requiring the attendance and testimony of a witness may also require that documents within the possession or control of that person be produced at the hearing.

2) Time of Service

Subpoenas shall be served upon a person personally or by certified mail. Unless the regional authority makes a finding that a witness may leave the jurisdiction or be unavailable in the future requiring the immediate testimony of a witness, then a subpoena personally served shall be served no less than seven days prior to the date for appearance ~~or~~^{and} if served by mail, postmarked no later than ten days prior to the date for appearance.

3) Enforcement

Whenever any person knowingly fails or refuses to comply with a subpoena issued in accordance with these rules, a regional authority may request the Director to take such action or institute judicial proceedings to enforce the subpoena as necessary to secure compliance with the terms of the subpoena.

g) Notification of Status of Investigation

1) Acceptance

If the regional authority decides to investigate a complaint, it shall notify the service provider of its intention to investigate the complaint unless it

believes that the advance notice will unduly hinder the investigation or make it ineffectual. When a regional authority notifies the service provider of its intention to investigate, it shall send the service provider a written notice which states a ~~brief~~belief summary of the complaint and the number assigned to it.

- 2) The service provider shall be given at least ten ~~days~~days prior written notice of each public meeting at which the service provider's complaint is on the agenda. Such notification shall also state that the service provider will be given an opportunity to comment.

- 3) Confidentiality

Whenever a complaint is reviewed at a regular or special ~~HRA~~ meeting, the name of the service provider shall not be made public until

- A) the complaint has been officially accepted; and
- B) the facility has been notified of the investigation.

- 4) Status

~~Upon~~During the course of an investigation, upon the request of the complainant, the provider, or any eligible person, the regional authority or regional coordinator shall inform them of actions taken in the course of the investigation. Such status may be discussed at any regular or special ~~meetings~~meeting of the regional authority subject to Sections 310.70(c) and (d) of this Part. Any matter so discussed shall be considered discussion only and shall not be binding or regarded as a finding or recommendation of the regional authority.

- 5) Program Director

~~The~~During the course of an investigation, the regional authority or regional coordinator shall inform the Program Director monthly of the status of an ongoing investigation.

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

Section 310.70 Recommendations and Findings

- a) Report of Findings

Upon completion of an investigation ~~pursuant to Section 23 of the Act~~, a regional authority shall prepare a proposed report of findings, including recommendations where appropriate, to be presented for discussion at the next regular meeting or

~~any~~such special meeting that is called to discuss the proposed report.

b) Review by Program Director

At least ten days prior to the date set by a regional authority for consideration of a proposed report of findings, a copy of the proposed report and any recommendations shall be forwarded to the Program Director for review. A regional authority shall not adopt a proposed report that has been forwarded to the Program Director ~~fewer~~less than 10 days prior to the meeting unless the Program Director determines that findings of fact and recommendations are clearly specified and supported by the record.

c) Consideration and Adoption of Report by Regional Authority

- 1) Except as provided in subsection (c)(3) below, the proposed report of findings and any recommendations shall be considered and adopted by a regional authority only at a regularly scheduled or special meeting upon majority vote of the members in attendance and constituting a quorum.
~~Any and all proposed findings and recommendations that the regional authority intends to include in the report shall be considered and discussed only in a closed session to insure that the provider, State Agency, or other person investigated shall have an opportunity to review and object to any such proposed public findings and recommendations prior to publication as provided in Section 26 of the Act.~~
- 2) If the regional authority votes to close the meeting to the public, each member's vote on that question shall be publicly stated at the time of the vote, recorded, and entered into the meeting minutes. Citations to the specific exception contained in Section 2 of the Open Meetings Act [5 ILCS 120] that authorizes the closing of the meeting to the public and to Section 21 of the Act shall also be publicly stated at the time of the vote and shall be recorded and entered into the minutes of the meeting.~~The regional authority shall record in its minutes Section 21 of the Act as the statutory basis for the closed session.~~
- 3) In the event that there is not quorum present and where the chairperson and a majority of those present deem it necessary to immediately send the report of findings to the service provider, a ~~telephone~~ poll of those not present may be taken for purposes of obtaining a majority vote. The decision shall be presented for ratification at the next meeting at which a quorum is present.
- 4) Within ten days of its adoption, the report and any recommendations shall be sent to the providers investigated with notification of the statutory

obligation to submit a response to the authority within thirty days from the date of receipt. This same notification shall inform the provider that the report may be made public after this ~~30-day~~^{30-day} response period pursuant to Section 19 and 26 of the Act and of ~~their~~^{his} right under Section 26 of the Act to object to the findings and recommendations of the regional authority. At the same time, a copy of the report and any recommendations shall be sent to the Program Director ~~for forwarding to the Commission~~. The complainant and any eligible person shall, within ten days after the completion of the investigation, be notified of the outcome of the investigation and any action taken thereon.

- 5) Upon request, the regional ~~authority~~^{Authority} should assist a provider in interpreting the report of findings and any recommendations.

d) Public Release of Reports

- 1) ~~In the interest of fairness to the provider a regional authority shall contact orally or in writing to elicit a response from the provider, before publicly disclosing findings and recommendations.~~
- 12) ~~The Pursuant to Sections 19 and 26 of the Act and after the 30 days response period has elapsed, the~~ regional authority may make public its report of findings, and any recommendations, upon a majority vote of the members in attendance and constituting a quorum at a regularly scheduled or special meeting.
- 2) If the State agency, service provider, or other person investigated has made a reply, the reply shall be attached to the report of findings and recommendations and made public.
- 3) If the State agency, service provider, or other person investigated has made an~~a response or~~ objection~~has been received~~, it shall be attached to the report of findings and any recommendations and ~~may be~~ made public ~~pursuant to Section 26 of the Act~~ only if the provider requests.
- 4) If no ~~reply~~^{response} has been received within the statutory ~~30-day~~^{30-day} ~~review~~^{thirty-day} period, the report of findings and any recommendations may be made public ~~pursuant to Section 26~~.
- 5) The provider and complainant shall be notified in writing within 10 days after the case is officially closed.
- 6) ~~The provider shall be notified if and when the regional authority makes~~

~~public its report.~~

- e) Closure
- A case shall be closed upon a majority vote of the members in attendance and constituting a quorum at a regularly scheduled or special meeting. In the event that there is no quorum present and where the chairperson and a majority of those present deem it necessary to immediately close the case, a ~~telephone~~ poll of those not present may be taken for purposes of obtaining a majority vote. The decision shall be presented for ratification at the next meeting at which a quorum is present.

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

Section 310.80 Confidentiality

- a) Policy
- Each regional authority shall conduct its meetings and investigations and keep its records in compliance with the requirements of confidentiality as enumerated in subsections (b) through (f) ~~infra~~ in order to uphold the dignity and privacy of eligible persons and their families, except as otherwise required by law.
- b) Prohibition Against Disclosure of Personally Identifiable Data~~Date~~
- No regional authority may disclose to any person any materials which identify an eligible person unless the eligible person or a person entitled to inspect or copy the eligible person's records consents to such disclosure, except if and to the extent that disclosure may be necessary for the appointment of a guardian for the eligible person. ~~regional authority may disclose to any person any materials which identify an eligible person unless the eligible person or legally authorized representative consents to such disclosure, except if, and to the extent that disclosure may be necessary for the appointment of a guardian for such eligible person.~~ Any such consent shall be informed and in writing.
- c) Prohibition Against Disclosure at Meetings or Hearings
- 1) No member shall intentionally ~~refer by name, description or other information that would~~ identify an eligible person or ~~their~~his family during any ~~public~~ meeting or hearing open to the public~~conducted by a regional authority~~ unless the eligible person or a legally authorized representative ~~on his behalf~~ consents to ~~such~~ disclosure pursuant to subsection Section 310.80(b) of this Part.
- 2) Every nonmember scheduled to testify at a hearing or wishing to speak at a meeting concerning the alleged violations of an eligible person's rights

~~shall be advised of the provisions of this Section and~~ shall be instructed to use a specific, non-~~descriptive~~ ~~descript~~ identifier (e.g., number) when referring to an eligible person or the person's~~his~~ family.

- d) ~~Closed~~~~Close~~ Meetings and Hearings
To the extent permitted by the Open Meetings Act, a regional authority may conduct closed meetings and hearings, or close a portion of a meeting or hearing, if necessary to ensure confidentiality or protect the rights of any eligible person or provider of services or other person. A verbatim recording of the closed meeting, hearing, or portion of meeting or hearing must be created.~~A regional authority may conduct closed meetings and hearings, or close a portion of a meeting or hearing, if necessary to ensure confidentiality or protect the rights of any eligible person or provider of services or other person.~~ The recording, minutes, and~~or~~ records of such closed meetings shall not be made public. ~~However, However,~~ the regional authority shall make public a summary,~~shall make public a summary,~~ which shall not contain personally identifiable data, ~~of any of the business conducted during any~~ closed meeting or hearing~~meeting or hearing~~.
- e) Each member's vote on holding a meeting closed to the public and citations to the specific exception contained in Section 2 of the Open Meetings Act [5 ILCS 120/2] that authorizes closing the meeting and to~~The regional authority shall record in its minutes~~ Section 21 of the Act shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting,~~as the statutory basis for the closed session.~~
- f) Redaction~~Deletion~~ of Personally Identifiable Data from~~From~~ Public Reports or Records
Reference shall not be made to any name, description, or other information that would serve to identify an eligible person or the eligible person's~~his~~ family in any public report issued by the regional authority; or ~~in~~ any minutes or other summaries of meetings or hearings open to the public,~~or any other public record or documents maintained by a regional authority,~~ unless the use of such personally identifiable data is consented to by the eligible person or a person entitled to inspect and copy the eligible person's records~~legally authorized representative in his behalf as provided in Section 310.80(b) of this Part.~~

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

Section 310.90 Limitations

- a) When a regional authority receives a complaint alleging that the rights of an eligible person have been violated in the region in which the authority sits, the authority shall investigate unless it determines that the complaint is frivolous or

beyond the scope of its authority or competence. If the Director finds that a conflict of interest exists, the Director may instruct a different regional authority to conduct the investigation. Any action taken by a regional authority is subject to the review and approval of the Commission. The Commission, acting on a request from the Director, may disapprove any action of a regional authority, in which case the regional authority shall cease such action. ~~When it appears to the Commission or its designee that proposed action by a regional authority is frivolous, beyond the resources or remedial powers or subject matter jurisdiction of the regional authority, or that such action may violate the rights of a client, provider, or other person, or that it may jeopardize an investigation, the Commission or its designee shall disapprove any such action; upon receipt of such disapproval the regional authority shall immediately cease such action pursuant to Section 5(c) of the Act.~~

- b) If a majority of a regional authority wishes to pursue such disapproved action, a written appeal may be submitted to the Chairperson of the Commission with a copy to the Director ~~and to the HRA Committee~~. No action under appeal shall be taken by the regional authority until a written response is received from the Commission allowing the pursuit of the action.
- c) Incurring Obligation
No regional authority shall retain or agree to retain the services of any person, ~~or~~ expend or agree to expend any funds, or incur or agree to incur a financial obligation without the prior written approval of the Director or a designee.
- d) Legal Action
~~The~~ ~~Pursuant to Section 8(3) of the Act, the~~ authority to institute legal proceedings rests solely with the Director.
- e) Testimony
All requests for HRA testimony and all prepared HRA testimony, shall be submitted to and reviewed by the Program Director ~~Commission~~ prior to its presentation to any ~~private or public~~ legislative or regulatory body.
- f) Conflict of Interest
A potential conflict of interest arises when a regional authority receives or initiates a complaint involving the dependent or relative of a regional authority member or authority staff ~~or~~; a service provider with whom a regional authority member or authority staff has a financial or business association; or when a complainant ~~who is being~~ represented by a regional authority member or authority staff before any ~~service provider or~~ governmental body. To avoid any appearance of impropriety and ~~to~~ resolve any potential conflict, the regional authority member or authority staff subject to the potential conflict shall not participate in

any aspect of the handling of the complaint by the regional authority. Where individual conflicts may make achieving a quorum to act on a complaint impracticable or create the appearance of a conflict of interest for the regional authority as a whole, then the regional authority may be deemed to have a conflict of interest.

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