**Section 475.50 Motion and Answer**

a) A written answer to a Notice of Hearing may be filed not later than seven days prior to the date of the hearing. For hearings conducted under the jurisdiction of the ISBE or the State Superintendent of Education, all answers or motions preliminary to a hearing shall be presented to the State Superintendent or a designated hearing officer in accordance with Section 475.20 of this Part at least seven days prior to the date of the hearing. For hearings conducted under the jurisdiction of the STCB, all answers or motions preliminary to a hearing shall be presented to the Secretary of the STCB or a designated hearing officer in accordance with Section 475.20 of this Part at least seven days prior to the date of the hearing. Failure to file an answer shall be deemed a general denial of matters asserted.

b) Unless made orally on the record during a hearing, or unless the hearing officer directs otherwise, a motion shall be in writing and shall be accompanied by any affidavits or other evidence relied upon, and, when appropriate, by a proposed order. For hearings conducted under the jurisdiction of the ISBE or the State Superintendent of Education, at least two copies of all such motions shall be filed with the General Counsel, one copy shall be filed with the hearing officer, and at least one copy shall be served on each additional party, if any, to the hearing. For hearings conducted under the jurisdiction of the STCB, at least two copies of all motions shall be filed with the Secretary to the STCB, one copy shall be filed with the General Counsel, one copy shall be filed with the hearing officer, and at least one copy shall be served on each additional party, if any, to the hearing.

c) Within seven days after service of a written motion, or such other period of time as the hearing officer may prescribe, owing to the complexity of the issues involved, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence.

d) No oral argument will be heard on a motion unless the hearing officer directs otherwise. If oral argument is permitted, then the hearing officer shall issue an order setting a date, time, and place for such argument. A telephone conference may be scheduled. A written brief may be filed with a motion or an answer to a motion, stating the arguments and authorities relied upon.

e) A written motion will be disposed of by written order, with notice to all parties.

f) The hearing officer shall rule upon all motions, except that the hearing officer shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record.

g) Unless otherwise ordered, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.

h) A party may participate in the proceeding without forfeiting any jurisdictional objection, if such objection is raised at or before the time the party files an answer or motion, or, if no answer or motion is made, before the commencement of the hearing.

i) Additional Parties

1) In the interest of convenient, expeditious and complete determination of matters, the hearing officer may consolidate or sever hearing proceedings involving any number of parties and may order additional parties to be joined.

2) Upon timely written application, the hearing officer may permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when any of the following conditions is met:

A) The party is so situated as to be adversely affected by a final order arising from the hearing;

B) The party has an unconditional statutory right to intervene in the proceedings; or

C) A party's circumstances and the hearing proceeding have a question of law or fact in common.

3) Two copies of a petition for intervention shall be filed with the General Counsel, one copy shall be filed with the hearing officer, and one copy shall be served on each party, no later than 48 hours prior to the date set for hearing of matters set forth in the Notice of Hearing. The hearing officer may permit later intervention when there is good cause shown for the delay.

4) An intervenor shall have all the rights of an original party, except that the hearing officer may, in the Order allowing intervention, provide that the party shall not raise issues which might more properly have been raised at an earlier stage of the proceeding, that the party shall not raise new issues or add new parties, or that in other respects the party shall not interfere with the conduct of the hearing, as justice and the avoidance of undue delay might require.

j) A hearing may be postponed or continued for due cause by the hearing officer upon the hearing officer's own motion or upon motion of a party to the hearing. Such motion of the party shall set forth facts attesting that the request for continuance is not for the purpose of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repeated postponements or continuances so that the subject matter may be resolved expeditiously.

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)