**Section 475.60 Hearing Officer: Qualifications, Powers and Duties**

a) *The State Superintendent or an attorney licensed to practice law in Illinois may act as a hearing officer to preside over a hearing and to exercise all the powers of a hearing officer enumerated in this Part.* [5 ILCS 100/10-20]

b) Appointment of Hearing Officer

1) When a hearing officer is to be appointed for a hearing conducted under the jurisdiction of the ISBE or the State Superintendent, the appointment shall be made by the State Superintendent.

2) When a hearing officer is to be appointed for a hearing conducted under the jurisdiction of the STCB, the STCB may either appoint the hearing officer or request that the State Superintendent appoint a hearing officer. At the direction of the STCB, a hearing officer may either preside over the hearing in the presence of the STCB or conduct an independent hearing. A hearing officer may also afford the STCB such legal counsel as it may require during the course of a hearing and until a final order is executed.

c) A hearing officer designated to preside over a hearing shall have all powers necessary and appropriate to conduct a fair, full and impartial hearing, including the following:

1) To administer oaths and affirmations;

2) To rule upon offers of proof and receive relevant evidence;

3) To exercise the power of the Superintendent, and issue subpoenas under any applicable statute;

4) To provide for discovery and determine its scope;

5) To initiate, schedule, and conduct a pre-hearing conference;

6) To regulate the course of the hearing and the conduct of the parties and their counsel therein;

7) To consider and rule upon procedural requests;

8) To rule upon motions, objections, and evidentiary questions;

9) To hold conferences for the settlement or simplification of the issues;

10) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;

11) To make decisions in accordance with the appropriate Act, any rules adopted pursuant to that Act, this Part, and the Illinois Administrative Procedure Act [5 ILCS 100].

d) *Except in the disposition of matters that are authorized by law to be entertained or disposed of on an ex parte basis, no agency employee or hearing officer shall, after notice of hearing pursuant to this Part, communicate directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or representative except upon notice and opportunity for all parties to participate. However, an agency member may communicate with other members of the agency and an agency member or hearing officer may have the aid and advice of one or more personal assistants.* [5 ILCS 100/10-60]

e) Disqualification

1) When a hearing officer deems himself or herself disqualified to preside over a particular hearing, he or she shall withdraw by notice on the record directed to the State Superintendent of Education for hearings conducted under the jurisdiction of the ISBE or the State Superintendent or to the Secretary of the STCB for hearings conducted under the jurisdiction of the STCB.

2) The ISBE, State Superintendent, or STCB, on its own motion or the motion of any party, may disqualify a hearing officer for bias or conflict of interest as provided under Section 10-30(b) of the Illinois Administrative Procedure Act [5 ILCS 100/10-30(b)], for physical or mental incapacity, or for persistent failure to meet statutory or other timelines. A party's motion shall be supported by affidavits setting forth the alleged grounds for disqualification. A motion by the ISBE, the State Superintendent, or the STCB shall state the alleged grounds for disqualification.

f) Failure or Refusal to Appear or to Obey the Rulings of a Hearing Officer:

1) Contumacious or improper conduct at any hearing before the hearing officer shall be grounds for exclusion from the hearing.

2) If a witness or a party refuses to answer a question after being directed to do so or refuses to obey an order to provide or to permit discovery, the hearing officer may make such orders with regard to the refusal as are just and appropriate, including an order denying the application or complaint of a party or regulating the contents of the record of the hearing.

g) Exclusion

At the request of any party, the hearing officer shall exclude all witnesses from the hearing room, except that, at any time, one representative of each party in addition to counsel shall be allowed to be present, even if that representative is also a witness. Individuals who are not witnesses are not affected by this subsection (g).

h) On any procedural question not regulated by this Part, the appropriate Act, or the Illinois Administrative Procedure Act, a hearing officer may be guided to the extent practicable by any pertinent provisions of the Illinois Supreme Court Rules or the Illinois Code of Civil Procedure [735 ILCS 5].

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