**Section 475.110 Hearings**

a) The location of the hearing shall be the location included on the Notice of Hearing (see Section 475.100(b)(1) of this Part). All hearings shall be public unless required by statute or if the hearing officer determines, in his or her sole discretion, that the circumstances at any hearing warrant closure of the hearing in whole or in part.

b) The following shall be the order of proceedings of all hearings, subject to modification by the hearing officer for good cause:

1) Presentation, argument, and disposition of motions preliminary to a hearing on the merits of the matters raised in the Notice of Opportunity for Hearing and Statement of Charges or answer;

2) Presentation of the State Superintendent's opening statement;

3) Presentation of the licensee's opening statement;

4) The State Superintendent's case;

5) The licensee's case;

6) The State Superintendent's rebuttal, if any;

7) The licensee's rebuttal, if any;

8) The State Superintendent's closing statement;

9) The licensee's closing statement;

10) Presentation and argument of all motions prior to final order;

11) Presentation of written briefs pursuant to subsection (j) of this Section; and

12) Filing of proposed findings of fact and conclusions of law, and recommendations of the hearing officer.

c) The State Superintendent of Education shall have the burden of proof. *The standard of proof for any administrative hearing held pursuant to* this Subpart A *shall be by the preponderance of the evidence.* [105 ILCS 5/21B-75]

d) Failure of a party to appear on the date set for the hearing or failure to proceed at the hearing as ordered by the hearing officer may, at the sole discretion of the hearing officer, constitute a default. In the case of a default, the hearing officer shall enter the findings, opinions, and recommendations as are appropriate based on the pleadings and evidence received into the record.

e) Evidence

1) A party shall be entitled to present the party's case or defense and oral or documentary evidence, to submit rebuttal evidence, and to conduct any cross-examination as may be required for full and true disclosure of the facts. Any oral or documentary evidence may be received but a presiding hearing officer may exclude evidence that is *irrelevant, immaterial or unduly repetitious. The rules of evidence and privileges applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except where excluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced,* a hearing officer may allow *evidence to be received in written form.* [5 ILCS 100/10-40]

2) The testimony of a witness shall be under oath or affirmation administered by the hearing officer or a certified court reporter.

3) If a party objects to the admission or rejection of any examination, or to the failure to limit its scope, then the party shall state briefly the grounds for the objection. Rulings on all objections shall appear in the record. When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the hearing officer shall admit the evidence subject to the right of the hearing officer to strike the evidence from the record either during the hearing or as a part of the proposed findings of fact and conclusions of law if the hearing officer determines that it was improperly admitted, in which case it shall not be considered in making proposed findings of fact, conclusions of law, and recommendations.

4) Formal exception to an adverse ruling is not required.

5) A hearing officer may, for good cause shown in compelling circumstances and upon appropriate safeguards, permit presentation of testimony at hearing by contemporaneous transmission from a different location (i.e., video-conference technology).

A) Good cause or compelling circumstances include when a witness is unexpectedly unable to attend the hearing, such as due to accident or illness, but is still able to testify remotely. Good cause can be established by agreement between the parties, and advance notice should be required.

B) Adequate safeguards are necessary to ensure accurate identification of the witness and protect against influences by other people present with the witness.

f) Officialnotice may be taken ofany material fact not appearing in evidence in the record ifthe circuit courts of this Statecouldtake judicial notice of this fact*. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge* of the SEPLB*. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the facts so noticed. The* SEPLB's *expertise, technical competence and specialized knowledge of the* SEPLB *may be utilized in the evaluation of the evidence.* [5 ILCS 100/10-40(c)]

g) Hostile or Adverse Witness

1) If the hearing officer determines that a witness is hostile or unwilling or adverse, then the witness may be examined by the party calling the witness as if under cross-examination.

2) The party calling an occurrence witness, upon the showing that the party called the witness in good faith and is surprised by the witness' testimony, may impeach the witness by proof of prior inconsistent statements.

h) *Oral proceedings or any part thereof shall be recorded* [5 ILCS 100/10-35(b)]by a certified court reporter. These records shall be transcribed either:

1) upon written application filed with the reporter or hearing officer by any party and upon the payment of fees at the rate provided in the agreement with the reporter or as established by the State Superintendent of Education, or

2) upon receipt of summons in administrative review or an order of a court, with payment of fees when allowed or required by statute. Any recording or transcription shall be retained through and including the time allotted for appeal, revision, re-hearing, or other manner of review, prior to final disposition as provided for by the SEPLB or by law.

i) The official record of each hearing conducted pursuant to this Subpart A shall consist of the items enumerated in Section 10-35(a) of the Illinois Administrative Procedure Act [5 ILCS 100/10-35(a)] and shall be maintained by the Secretary of the SEPLB.

j) The hearing officer shall allow parties to submit written briefs within 21 days after the close of the hearing or any other reasonable time as the hearing officer shall determine.