**Section 50.110 Record of Hearings and General Procedural Rules**

a) Filing and Form of Papers

1) The original copy of any complaint, appeal, pleading, written motion, notice or other documents shall be on 8½ x 11 paper and shall be filed in the Office of the Commission. Documents shall be signed in ink by the party filing them or by his representative and contain the address and telephone number of the party, or, if represented, the name, business address and telephone number of such representative.

2) Copies of all filed documents shall be served on all known parties to proceedings, and notice of such service shall be given to the Commission.

3) For the purpose of determining the timeliness of filing only, "receipt" is herein defined to mean either personal delivery or date of postmark when deposited in the U.S. mail, in a sealed envelope, with postage prepaid, and properly addressed. If the last date for filing falls upon a weekend or legal holiday, the last date for filing is the first business day following such weekend or legal holiday.

b) Notice

Notice to a designated representative is notice to his/her client. Notice to an employee who is not represented shall be served at the address specified in the employee's appeal or, in the absence of such specification, to the last address shown in the employee's personal file. Notice shall be served at the General Law Division of the Attorney General's Office with a copy sent to the Division or Department Head, and to the Director of Personnel.

c) Time of Hearing

The Commission shall grant the parties a hearing within 45 calendar days following actual, in hand receipt of a written request for hearing, except for cases involving position allocation, geographical transfer, and violation appeals. Geographical transfer, violation, and allocation appeal hearings shall be granted within 60 calendar days after receipt of a request for hearings.

d) Conduct of Hearings

All disciplinary hearings shall be public, but individuals displaying disruptive behavior may be barred. Each party may call witnesses to testify in his/her own behalf and to have the aid of counsel at his/her own expense. The respective parties may cross-examine opposing witnesses and present documentary and demonstrative evidence. The hearing need not be conducted according to the technical rules relating to evidence and witnesses. (See Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40].)

e) Motions

1) If any party objects to the written charges, or other matters, the Commission favors the practice of submitting motions outlining such objections prior to the date of the hearing.

2) The motion shall point out specifically the defects complained of, and shall ask for appropriate relief, such as: that the action be dismissed, or that a charge be made more definite and certain in a specified particular, or that designated immaterial matter be stricken, and so forth. The Hearing Officer shall rule and enter an appropriate order either to permit or require pleading over or amending or terminating the matter in the whole or in part.

f) Continuances and Extensions

1) The Commission or a Hearing Officer appointed by it to conduct a hearing may, at its discretion, for good cause shown, on timely motion, after notice to the opposite party, extend the time for filing any pleading or documents or may continue the date of a scheduled hearing for a limited period.

2) Motions for extensions or continuances are not timely unless asserted at least 48 hours prior to the time scheduled for filing or hearing except for emergencies.

3) The granting of a request for continuance by the employee in a discharge appeal will constitute a voluntary waiver by him/her of any claim to compensation for the period of such continuance if he/she is ordered retained in his/her position.

g) Request for List of Witnesses

Upon timely request made, either party must furnish to the other party a list of the names and addresses of prospective witnesses.

h) Right to Inspect and Interview

Any party or their representative shall have the right, upon timely motion, to inspect any relevant documents in the possession of or under the control of any other party and to interview employees having knowledge of relevant facts. Interviews of employees and inspection of documents shall be at times and places reasonable for the employee and for the employer.

i) Appearances of Witnesses

1) The Commission Chairman and Commissioners are authorized to issue subpoenas for those witnesses or documents as may be required by any party. Subpoenas duces tecum shall specify the books, papers, and accounts or documents desired to be produced. The appearance of a party or agent and/or employee of a party, may be secured by merely serving the party with written notice designating the persons required to appear. For good cause shown the Hearing Officer on motion may quash or modify any subpoena or notice.

2) The Code provides that *any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony in relation to any investigation or hearing under the Code shall be guilty of a misdemeanor.* (Section 15 of the Code)

j) Pre-Hearing Conference

1) In any action, the Hearing Officer may hold a pre-hearing conference. At the conference, the parties, or their representatives, shall appear as the Hearing Officer directs to consider:

A) The simplification of the issue;

B) Amendment to the charges;

C) The possibility of obtaining admissions and stipulations of fact and of documents to avoid unnecessary proof;

D) The limitation of the number of expert witnesses;

E) Any other matters that may aid in the disposition of the action.

2) The Hearing Officer shall make an order reciting any action taken, any agreement made by the parties as to any of the matters considered, and the issues to be heard.

k) Written Interrogatories

1) Any party may direct written interrogatories to any other party. Interrogatories shall be restricted to the subject matter of the particular case.

2) Within a reasonable time period after the service of the interrogatories an answer or objection shall be made to each interrogatory. If an answer may be obtained from a document in the possession or control of a party, it shall be sufficient to specify that document as an answer.

3) Answers to interrogatories may be used in the same manner in Commission proceedings as depositions.

l) Depositions

Upon order of the Hearing Officer, the Commission, its Hearing Officer, or any party may cause a deposition of any witness to be taken for use in a Commission proceeding as evidence. The deposition shall be taken in the manner provided by law for depositions in civil actions in the courts of this state.

m) Written Admissions

A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request, or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished. Failure to answer such request within a reasonable time shall be deemed as an admission of all items contained in the request.

n) Opening and Closing Statements

Upon the opening of the hearing, the Hearing Officer may allow the Petitioner and the Respondent to make opening statements. Upon the close of the hearing, each side may make a closing statement orally and/or by written brief incorporating arguments of fact and law. The form of the closing statement shall be at the discretion of the Hearing Officer.

o) Examination of Adverse Party or Agent

In the hearing of any case, any party or his agent may be called and examined as if under cross-examination at the instance of any adverse party. The party calling for the examination is not concluded thereby, but may rebut the testimony thus given and may impeach the witness by proof of prior inconsistent statement.

p) Hostile Witness

If the Hearing Officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling him/her as if under cross-examination. The party calling an occurrence witness may, upon showing that he/she called the witness in good faith but is surprised by his/her testimony, impeach the witness by proof of prior inconsistent statements.

q) Failure to Comply with Orders or Rules

If a party, or any person at the instance of or in collusion with a party, unreasonably refuses or fails to comply with this Part, or with any order of the Merit Commission or its Hearing Officer, the hearing authority may enter such adverse finding, order, or decision as may be necessary to insure just disposition of the matter.

r) Record of Proceedings

In all hearings, other than informal allocation conferences, held before the Commission or a Hearing Officer duly appointed by the Commission to conduct those hearings, the Department or Division that is a party thereto shall arrange for a record of the proceedings to be made, transcribed, and filed in the Office of the Commission.

s) Proposed Decision and Responses

1) In every contested case, the Hearing Officer shall prepare a proposal for decision that shall be forwarded to the parties at least 10 calendar days prior to the Commission meeting to allow the filing of written exceptions and legal arguments prior to the Commission rendering a final decision.

2) Five copies of any such response must be received by the Commission at least 72 hours prior to the meeting at which a decision is scheduled to be rendered. For purposes of this subsection only "receipt" is defined as "actual, in-hand receipt".

(Source: Amended at 39 Ill. Reg. 436, effective December 18, 2014)