**Section 1105.180 Confidentiality**

a) Except as provided in subsection (b) of this Section or in the Board's rules relating to the Freedom of Information Act [5 ILCS 140], no Board member or employee of the Board shall produce or present any files, documents, reports, memoranda, or records of the Board in any contested case proceeding held pursuant to the rules of the Board, whether in response to a subpoena duces tecum or otherwise, without the written consent of the Board. Nor shall any such person testify in behalf of any party in any such proceeding with respect to any information, facts, or other matter coming to his or her knowledge in his or her official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Board, whether in answer to a subpoena or otherwise, without the written consent of the Board. The Board will consent upon a demonstration of the absolute necessity of such documents or testimony to the case and the impossibility of obtaining the evidence sought from any other source.

b) Notwithstanding the prohibitions of subsection (a) of this Section, after a witness called by the charging party or the respondent has testified in a hearing upon an unfair labor practice complaint, the Administrative Law Judge shall, upon motion of the opposing party, inspect in camera any statement (as hereinafter defined) of such witness in the possession of the Board. The Administrative Law Judge shall excise the portions of such statement which, although not relating to the subject matter of the testimony of the witness, do relate to other matters raised by the pleadings. With such material excised, the Administrative Law Judge shall then direct delivery of such statement to the parties for use on cross-examination and redirect. If, pursuant to such procedure, any portion of such statement is withheld from the parties and a party objects to such withholding, the entire text of such statement shall be preserved by the Administrative Law Judge, and, in the event a party files exceptions with the Board based upon such withholding, shall be made available to the Board for the purpose of determining the correctness of the ruling of the Administrative Law Judge. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the Administrative Law Judge shall order it to be delivered directly to the parties for examination and use for the purpose of cross-examination and redirect. The right to inspect any such statements shall be waived if the motion to have the Administrative Law Judge inspect and deliver the statement for use in cross-examination is not made before the witness is excused from the stand.

c) The term "statement" as used in this Section means:

1) A written statement made by said witness and signed or otherwise adopted or approved by him; or

2) A stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the party obligated to produce the statement and recorded contemporaneously with the making of such oral statement.

(Source: Amended at 28 Ill. Reg. 8710, effective June 6, 2004)