**Section 1220.90 Sanctions**

a) *The Board's order may in its discretion include an appropriate sanction, based on the Board's rules and regulations, if the other party has made allegations or denials without reasonable cause and found to be untrue or has engaged in frivolous litigation for the purpose of delay or needless increase in the cost of litigation. The State of Illinois or any agency thereof shall be subject to* these *provisions in the same manner as any other party.* (Section 11 of the Act)

b) The Board may award sanctions for such written or recorded *allegations or denials*, including statements recorded during the course of Board proceedings.

c) *The sanction may include* an admonition or reprimand; striking an offending *allegation or denial; an order to pay the other party or parties' reasonable expenses,* *including costs and reasonable attorney's fees* or an appropriate portion thereof; and/or any other *appropriate sanction.* (Section 11 of the Act) Sanctions are to be awarded only against a party or parties to the proceeding.

d) Any party to an unfair labor practice proceeding may move for sanctions. The motion for sanctions must be a succinct statement identifying the *allegations* and/or *denials* and/or incidents of *frivolous litigation* alleged to be subject to sanctions, with citations to the record, and succinct arguments. (Section 11 of the Act) The party subject to the motion for sanctions shall have 14 days after service of the motion to respond or withdraw the paper or position that is the basis of the motion. Neither the motion for sanctions nor the response may be used as an additional brief on the merits of the underlying case.

1) Motions for sanctions may be filed with the Executive Director while an unfair labor practice charge is pending before the Executive Director. Sanctions before the Executive Director may only be sought for instances of frivolous litigation. Motions shall be filed no later than 7 days after receipt of the Executive Director's notice that investigation of the unfair labor practice charge has been completed, or that a party has withdrawn the unfair labor practice charge.

2) Once an unfair labor practice complaint has been issued, motions for sanctions may be filed with the Administrative Law Judge. Sanctions before the Administrative Law Judge may be sought for both *allegations or denials made without reasonable cause and found to be untrue and/or instances of frivolous litigation.* (Section 11 of the Act.) Motions shall be filed no later than 7 days after receipt of the last post-hearing brief scheduled to be filed, or no later than 7 days after the close of the hearing, if no briefs are to be filed.

3) Once the Administrative Law Judge has issued a recommended decision and order, or the Executive Director has issued an order dismissing an unfair labor practice charge, the motion and order is pending before the Board. Motions for sanctions shall be filed no later than 7 days after receipt of the last brief scheduled to be filed with the Board, or no later than 7 days after oral argument before the Board, if such argument occurs after all briefing is completed. Sanctions before the Board may be sought for either *allegations or denials made without reasonable cause and found to be untrue and/or instances of frivolous litigation.* (Section 11 of the Act)

e) A party may request sanctions from the Board for *allegations or denials* *made without reasonable cause and found to be untrue* even though it did not move for sanctions on that *allegation or denial* before the Administrative Law Judge, and even though the Administrative Law Judge did not recommend sanctions on such *allegations or denials*. (Section 11 of the Act)

f) A party may not request sanctions from the Board for alleged *frivolous litigation for the purpose of delay or needless increase in the cost of litigation* before the Executive Director or Administrative Law Judge, unless it requested sanctions from the Executive Director or Administrative Law Judge as to such alleged incident of *frivolous litigation,* or unless the Executive Director or Administrative Law Judge recommended sanctions as to such alleged incident of *frivolous litigation.* (Section 11 of the Act)

g) Except as provided in subsection (h) below, an order for sanctions shall be included in the Executive Director's order, the Administrative Law Judge's recommended decision and order, or the Board decision and order.

h) If neither party has moved for sanctions, the Executive Director, Administrative Law Judge, or Board may sua sponte issue an order to show cause why sanctions are not warranted. The party or parties to whom the order to show cause is directed shall have 14 days from the service of that order to file a response. The order to show cause shall recite the conduct or circumstances at issue.

i) An order leveling sanctions shall recite the conduct or circumstances for which sanctions are sought, and explain the basis for the sanction imposed.

(Source: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)