**Section 1925.780 Ex Parte and Extra-Record Communication**

a) *Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis including, but not limited to rule making, the State Board, any State Board member, employee, or hearing officer shall not engage in ex parte* *communication in connection with the substance of any formally filed application for a permit with any person or party or the representative of any party. This subsection (a) applies when the Board, member, employee, or hearing officer knows, or should know upon reasonable inquiry, that the application or exemption has been formally filed with the Board. Nothing in this Section shall prohibit staff members from providing technical assistance to applicants. Nothing in this Section shall prohibit staff from verifying or clarifying an applicant's information as it prepares the Board staff report. Once an application or exemption is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file.* [20 ILCS 3960/4.2(a)]

b) *A State Board member or employee may communicate with other members or employees and any State Board member or hearing officer may have the aid and advice of one or more personal assistants.* [20 ILCS 3960/4.2(b)]

c) *An ex parte* or extra-record *communication received by the State Board, any State Board member, employee, or hearing officer shall be made a part of the record of the pending matter, including all written communication, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.* [20 ILCS 3960/4.2(c)]

d) The State Board member, employee or hearing officer who received or made the ex parte or extra-record communication shall submit those communications, responses and memoranda to the Administrator who shall cause them to be filed in the administrative record for the subject project in a separately identified section.

e) The ex parte or extra-record communication, together with all other documents enumerated in this Section, shall be available to the public in conformance with Section 3 of the Freedom of Information Act. Prohibited communications shall be reported to the General Assembly and incorporated on the State Board's website (http://www.hfsrb@illinois.gov).

f) Any ex parte or extra-record communication shall not be considered by the State Board, any State Board member or any HFSRB employee, nor form the basis for any decision, finding of fact or order.

g) *"Ex Parte* *communication*" or "extra-record communication" *means a communication between a person who is not a State Board member or employee and* *a* *State Board member or employee that reflects on the substance of a pending State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte or extra-record communications. Technical assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided.* [20 ILCS 3960/4.2(d)]

h) Any communication, written or oral, received from a member of the public, news media, interested persons, legislators, or other persons regarding any matter, other than the status of an application, that is not authorized by the public comment process specified in 77 Ill. Adm. Code 1130 is ex parte or extra-record communication and is prohibited.

i) *For purposes of this Section, "employee" means a person the State Board or the Agency employs on a full-time, part-time, contract, or intern basis.* [20 ILCS 3960/4.2(e)]

j) *The State Board, State Board member, or hearing examiner presiding over the proceeding, in the event of a violation of this Section, must take whatever action is necessary to ensure that the violation does not prejudice any party or adversely affect the fairness of the proceedings.* [20 ILCS 3960/4.2(f)]

k) *Nothing in this Section shall be construed to prevent the State* *Board* *or any member of the State board or any employee from consulting with the attorney for the State Board.* [20 ILCS 3960/4.2(g)]