**Section 475.80 Motions**

a) A written answer to the Statement of Charges is not required; however, if a licensee desires to file a written answer, then he or she shall file that answer by the deadline set in any scheduling order established by the hearing officer at the initial pre-hearing conference (see Section 475.70(a) of this Part). Failure to file an answer shall be deemed a general denial of matters asserted.

b) Unless made orally on the record during a hearing, or unless the hearing officer directs otherwise, a motion shall be in writing. A written brief may be filed in support of a motion, and a response to a motion may take the form of a written brief, stating the arguments and authorities relied upon. Any written brief shall be accompanied by any affidavits or other evidence relied upon and, when appropriate, by a proposed order. Motions and any supporting briefs shall be filed and served in accordance with Sections 475.20 and 475.30 of this Part.

c) Within seven days after service of a written motion, or other period of time as the hearing officer may prescribe, owing to the complexity of the issues involved, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence.

d) Any motions contesting jurisdiction or otherwise seeking dismissal of a matter shall be filed no later than 21 days prior to the date of the hearing.

e) No oral argument shall be heard on a motion unless the hearing officer directs otherwise. If oral argument is permitted, then the hearing officer shall issue an order setting a date, time, and place for the argument. The hearing officer, in his or her sole discretion, may select the mode of communication for any such oral argument (e.g., telephone conference, video-conference, in-person).

f) A written motion shall be disposed of by written order by the hearing officer, with notice to all parties.

g) Prior to the commencement of any hearing, the State Superintendent may file a written motion seeking to amend the Statement of Charges. This motion may be granted by the hearing officer for reasons including, but not limited to, the discovery of new evidence. If the State Superintendent is granted leave by the hearing officer to file an amended Statement of Charges, then, unless otherwise agreed to by the parties, any hearing date previously set shall be stricken and re-set for a new date at least 30 days after the amended Statement of Charges is received by the licensee. The hearing officer, in the order granting leave to the State Superintendent to amend the Statement of Charges, shall include any changes to the pre-hearing schedule resulting from an amended Statement of Charges.

h) The hearing officer shall rule upon all motions prior to the presentation of evidence or testimony at the hearing, except that a hearing officer shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record. A hearing officer shall submit any recommendation on a licensee's motion for dismissal to the SEPLB, with a copy submitted to the parties of record, setting forth his or her legal and factual bases for the recommendation. Each party of record shall be allowed 14 days from receipt of the recommendation in which to submit exceptions to the recommendation and to present a brief to the hearing officer in support of the position of the party. If a party files an exception within 14 days, the other party shall be permitted seven days from the date the first party filed the exception to file its own exception. If the SEPLB denies the hearing officer's recommendation to dismiss, then it shall order the hearing officer to continue with the hearing in accordance with Section 475.110 of this Part. If the SEPLB grants a party's motion to dismiss, then it shall enter an appropriate order.

i) Subject to the granting of a motion to amend the Statement of Charges, as referenced in subsection (g) of this Section, and unless otherwise ordered by the hearing officer, the filing of an answer or granting of a motion shall not stay the proceeding or extend the time for the performance of any act.

j) A hearing may be postponed or continued for good cause by the hearing officer upon the hearing officer's own motion or upon motion of a party to the hearing. The motion of the party shall set forth facts attesting that the request for continuance is not for the purpose of undue delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repeated postponements or continuances so that the subject matter may be resolved expeditiously.