**Section 150.30 Preliminary Review of Complaint**

a) Preliminary Review

1) Upon the filing of a complaint, the General Counsel shall perform a preliminary review to determine whether the complaint meets the following requirements to constitute a valid complaint under the Act.

A) The complaint alleges a violation under Title III of the Act;

B) The complaint pertains to a federal election; and

C) The complaint states sufficient facts as to constitute a cause of action under the Act for which the Board can grant appropriate relief.

2) If the General Counsel determines that the complaint meets the criteria listed in subsection (a)(1) for a valid complaint under the Act, then the complaint shall proceed under subsections (b) and (c). If the General Counsel determines that the complaint has not met the listed criteria for a valid complaint under the Act, the complaint shall be presented to the Board for a final determination of its status. In addition, the complainant shall be notified in writing of the General Counsel's determination of the complaint's invalidity and be given an opportunity to appear before the Board to show cause as to why the complaint should not be dismissed. The decision of the Board as to the status of the complaint shall be in the form of a final order subject to appeal under the Illinois Administrative Review Law [735 ILCS 5/Art. III], within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code. As an alternative to summary dismissal of the complaint, the Board may determine that the complaint alleges a violation of the Election Code and refer it for investigation to the appropriate division of the Board or to the appropriate election authority or law enforcement agency.

b) After a determination by the General Counsel that the complaint meets the criteria set out in subsection (a), and upon the written request of the complainant, the Board shall appoint a hearing examiner to conduct a hearing. This hearing shall be held to determine whether the complaint is sufficiently grounded in fact and law. The request must be a part of or accompany the complaint when filed. Following the hearing, the hearing examiner shall make a written recommendation as to whether the complaint is sufficiently grounded in fact and law, and a copy of the recommendation shall be given to the General Counsel for his or her recommendation and to both parties to the complaint. Upon receipt of the recommendation of the hearing examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any, action should be taken as a result of the complaint. The final determination and decision shall be in the form of a final order subject to appeal under the Illinois Administrative Review Law, within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code.

c) Should the complainant fail to request a hearing, the Board shall appoint a hearing examiner to make a recommendation based solely on the complaint, any evidence submitted with the complaint, and any response offered by the respondent as to whether the complaint is sufficiently grounded in fact and law. The hearing examiner shall allow the respondent an opportunity for a hearing to present evidence supporting any offered defense (both documentary and/or testimonial) prior to the hearing examiner submitting the recommendation to the General Counsel. The complainant shall be given notice and an opportunity to be present and participate in the hearing; however, failure of the complainant to appear at the hearing shall not factor into the hearing examiner's recommendation as to whether the complaint is sufficiently grounded in fact and law. After considering all evidence presented by the parties, the hearing examiner shall prepare a written recommendation to be given to the General Counsel for his or her recommendation and to the parties to the complaint. Upon receipt of the recommendation of the hearing examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any, action should be taken as a result of the complaint. The final determination and decision shall be in the form of a final order subject to appeal under the Illinois Administrative Review Law, within the parameters of Sections 9-22, 10-10.01 and 17-33 of the Election Code.

d) The proceedings of the hearing shall be recorded either by a certified court reporter or by means of an electronic recording device. Any party may provide for his or her own recording of the proceedings of the hearing utilizing a court reporter or any other recording device. Any associated costs, however, shall be borne by the party providing for the recording.

e) The Board shall render a final determination of the matters alleged in the complaint within 90 days after the filing of the complaint. The time period may be extended by a written waiver of the complainant. If the Board fails to render a final determination with respect to the complaint by the end of the 90 day period and no such waiver is provided by the complainant, the Board shall order the matter to be resolved by an alternative dispute resolution mechanism described in Section 150.145.

(Source: Amended at 40 Ill. Reg. 1953, effective January 5, 2016)