**Section 2402.290 Ex Parte Contacts**

a) Except as to such matters which by law are subject to disposition on an ex parte basis, the Hearing Officer, any employee (or superior thereof) of the Department Division involved in the hearing, and any party to a hearing shall not make an unauthorized ex parte communication directly or indirectly about any matter which is the subject of a pending hearing. This prohibition shall commence with the issuance of a Notice of Hearing.

b) Unauthorized ex parte communications shall consist of:

1) any written communication of any kind about the hearing unless copies thereof are served by the communicator, contemporaneously with the transmittal of the communication, upon all parties to the hearing,

2) any oral communication of any kind about the hearing unless:

A) 48 hours advance written notice that it will be made is given by the communicator to all parties to the hearing (including the Department counsel); or

B) its contents are disclosed by the communicator at the time of its presentation to all the parties to the hearing (including the Department counsel); or

C) the substance of the contents of the oral communication is reduced to writing and personal or telegraphic service of copies thereof is made by the communicator within 24 hours following the presentation of the oral communication upon all parties to the hearing (including the Department counsel).

c) Authorized ex parte communications shall consist of:

1) any communication made openly or on the record at a scheduled hearing, regardless of whether all the parties are present;

2) any oral or written communication which is authorized by statute or Department rule, or to which all parties agree, or which the Director formally rules may be made on an ex parte basis;

3) any oral or written request for information solely with respect to the status of a hearing;

4) any communication made with respect to a hearing about which no public notice has been issued, if the communicator has no actual notice of the pendency of the hearing;

5) any oral or written communication of facts or contentions which have general significance for the insurance industry and which the communicator cannot reasonably be expected to know that the facts or contentions are material to a substantive or procedural issue in a pending hearing;

6) any communication by persons other than:

A) a party seeking to intervene in a hearing; or

B) a party who might be adversely affected by a determination in the hearing; or

C) a party who intercedes in a hearing by volunteering a communication which he may reasonably be expected to know might advance or adversely affect the interest of a particular participant in a hearing, whether or not he acts with the knowledge or consent of any participant or participant's agent; or

D) an agent of any of the foregoing parties described in Section 2402.290(c)(6).

7) any oral or written communication between employees of the Department. The Hearing Officer or the Director may communicate with employees of the Department to obtain their aid and advice of technical matters which fall within the area of expertise of the employee consulted.

d) If the Hearing Officer or any employee of the Department or any party to a hearing receives a written communication which he knows is unauthorized, or which he concludes, in fairness, should be brought to the attention of all parties to the hearing, he shall transmit the communication promptly to the Director, together with a written statement of the circumstances under which it was made, if they are not apparent from the communication itself. Upon receiving the communication, the Director shall place it and any accompanying statement in the Department file concerning the hearing to which the communication relates, and he shall send copies of the communication to all parties to the hearing, to the Hearing Officer, and to the Department counsel, and he shall notify the communicator of the provisions of this Rule prohibiting ex parte communications. He may also institute such sanctions against the communicator as he may deem appropriate and in accordance with the sanction provisions of this Rule. Whenever the Director determines that the communications he receives are either so voluminous or of a borderline relevance to the issues in the hearing so as to constitute the procedure of sending copies to all parties too burdensome, he may instead notify all parties to the hearing that the communications have been received and placed in the Department files where they are available for examination.

e) If the Hearing Officer or any employee of the Department or any party to a Hearing receives an oral communication which he knows is unauthorized, or which he concludes, in fairness, should be brought to the attention of all parties to the Hearing, he shall put the substance of the communication in writing and transmit the writing promptly to the Director, together with a written statement of the circumstances under which the communication was made. Upon receiving the writing, the Director shall place it and any accompanying statement in the Department files concerning the Hearing to which the communication relates, and he shall send copies of the writing to all parties to the Hearing, to the Hearing Officer, and to the Department counsel, and he shall notify the communicator of the provisions of this Rule prohibiting ex parte communications. He may also institute such sanctions against the communicator as he may deem appropriate and in accordance with the sanction provisions of this Rule. Whenever the Director determines that writings containing the substance of the communications are either so voluminous or of a borderline relevance to the issues in the Hearing so as to constitute the procedure for sending copies to all parties too burdensome, he may instead notify all parties to the hearing that the communications have been received and placed in the Department file where they are available for examination.

f) All parties to a hearing, including Department Counsel, may request of the Hearing Officer an opportunity to answer any allegations or contentions contained in any unauthorized ex parte communication or in any other ex parte communication brought to the attention of the parties in accordance with the provisions of this Rule. The Hearing Officer will grant such requests whenever he determines that the dictates of fairness so require.

g) The Director may, to the extent not prohibited by law, institute and enforce any or all of the following sanctions against any party who makes, or solicits the making of, an authorized ex parte communication or who fails to report to the Director such a communication:

1) deny the relief, benefit or action sought by the party or parties to the hearing;

2) report any such unauthorized communication made by licensed professional persons to the appropriate disciplinary authorities of the respective profession of the person involved;

3) censure, suspend, or dismiss any Department employee in accordance with the provisions of the Illinois Civil Service Code, when applicable.