**Section 100.60 Hearings**

a) The administrative law judge shall be an attorney licensed to practice law in Illinois who is appointed by the Director to preside at an administrative hearing. The procedure for disqualification of an administrative law judge set out in Section 100.8(i) applies to this Subpart.

b) All hearings shall be open to the public. The administrative law judge will determine whether to conduct the hearing through telephonic or videoconference technology, based on travel distances for all parties and witnesses, the need to expedite the proceeding, or the availability of a location.

1) *The hearing shall be conducted at the nearest regional office of the Department, or in a location contracted by the Department in the county where the citation was issued.* (SFIA Section 40(d)) If the hearing is conducted electronically in accordance with subsection (b), unless otherwise agreed by all parties, at least one party or the administrative law judge shall attend the hearing at the nearest regional office or in a location contracted by the Department in the county where the citation was issued.

2) All exhibits intended to be offered into evidence during a telephonic hearing shall be received by the administrative law judge no later than 24 hours prior to the hearing. Exhibits may be submitted to the administrative law judge through U.S. Mail, electronic mail or fax.

c) If no court reporter is present, the administrative law judge will make an audio or audiovisual recording of the proceedings and will maintain the recording until 90 days after the Director has entered a final order, unless a timely notice of civil administrative review is filed, in which case the administrative law judge will cause the audio recordings to be transcribed by a certified stenographic reporter and will cause the transcript to become part of the official record. A party requesting a copy of the transcription or initiating a legal review or appeal shall be billed directly for the copy.

d) *The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. Evidence not admissible under* those *rules of evidence may be admitted, however (except where precluded by statute), if it is of a type commonly relied upon by reasonably prudent* persons *in the conduct of their affairs.* Immaterial, irrelevant, or unduly repetitious material shall be excluded. *Objections to evidentiary offers may be made and shall be noted in the record.* (IAPA Section 10-40(a))

e) A party may offer any of the following documents into evidence without further foundation:

1) Official police investigative reports and narratives, prepared by sworn Illinois police officers, sheriff's deputies and officers of the Illinois State or Secretary of State Police, prepared in the course of their official duty;

2) The enforcing agency's inspection or investigative reports produced pursuant to Section 100.12(a); or

3) Copies of any official records maintained by a governmental agency.

f) The failure of an alleged violator to appear, after receiving proper notice under Section 100.25, shall result in a default judgment being entered by the administrative law judge. A default judgment entered against a violator after a failure to appear may be vacated by the Director within 15 days after entry in cases in which the alleged violator, upon written motion, can demonstrate good cause, as that term is construed under Illinois law, for the failure to appear. In cases in which an enforcing agency fails to have any witness appear, the administrative law judge shall dismiss the case against the alleged violator. An alleged violator's failure to appear or an enforcing agency's failure to have a witness appear in one particular case shall not have any effect on any other case.

g) An alleged violator may request an expedited hearing by making a written request to the administrative law judge, who will then set the matter for hearing within 120 days after actual receipt of such a written request. However, no subsequent continuance shall deprive the Department of jurisdiction or compel a dismissal.

(Source: Amended at 46 Ill. Reg. 8158, effective May 5, 2022)