**Section 974.190 Grant Funds Recovery**

a) Grants made under this Part are subject to the Illinois Grant Funds Recovery Act. If a provision of this Part conflicts with a provision of the Illinois Grant Funds Recovery Act, then the provision of the Illinois Grant Funds Recovery Act controls.

b) The Illinois Grant Funds Recovery Act will be used to recover funds in cases of any breach of the grant agreement, including, but not limited to, a failure to expend funds as specified in the grant agreement, retaining grant funds beyond the term, or expending funds for unauthorized or unlawful purposes.

c) The Illinois Grant Funds Recovery Act will be used to recover funds awarded to a grantee for program costs if the grantee fails to provide objective written guidance and documentation of compliance with all grant deliverables, including a close out report detailing how all the funds were expended.

d) The Department shall have the authority to issue subpoenas as part of an official investigation into the use of grant funds. Subpoenas shall be issued and enforced according to Illinois Supreme Court Rules and the Code of Civil Procedure.

e) Every grantee and subgrantee shall keep complete and accurate accounting records of all grant funds that the grantee receives, administers, oversees or expends. A grant recipient's failure to create and maintain accounting records that demonstrate the grant recipient's receipt, administration, oversight, expenditure or use of all grant funds shall create a presumption in favor of recovery by the Department. If a person or entity that obtains grant funds dispenses or subgrants any or all of those funds to another person or entity for obligation, expenditure or use, then those funds shall also be treated as grant funds and shall be subject to recovery by the Department, whether or not the entity receiving grant funds has a written grant agreement with the Department.

f) Grantees shall cooperate with all requests for information and documents, as well as investigations and audits of a grantee's use of grant funds. Grantees shall provide the Department with unrestricted access to the grantee's books, records, files, activities and employees during normal business hours. A failure to cooperate shall create a presumption that grant funds have not been spent in accordance with the written grant agreement and be grounds for suspension or termination of any grant agreement and the recovery of grant funds.

g) *Whenever the* Department *believes that grant funds are subject to recovery, the* Department *shall provide the grantee the opportunity for at least one informal hearing to determine the facts and issues and to resolve any conflicts as amicably as possible before taking any formal recovery actions* (Section 7 of the Illinois Grant Funds Recovery Act).

h) The offer of an informal hearing will be in writing and will provide the grantee with no fewer than 10 calendar days in which to request an informal hearing. A grantee's failure to deliver a timely written request for an informal hearing to the Department shall constitute the grantee's waiver of the informal hearing. During any informal hearing, the grantee shall be represented by an attorney licensed in the State of Illinois.

i) If, after an informal hearing or if no timely request for an informal hearing is received, the Department determines that any grant funds are to be recovered, the Department will provide the grantee with formal written notice of its intent to recover grant funds. The notice will identify the funds and the amount to be recovered and the specific facts that permit recovery.

j) A grantee shall have 35 days from the receipt of the notice required in subsection (i) to request a hearing to show why recovery is not proper.

k) If a grantee timely requests a hearing, the Department will hold a formal hearing in accordance with Practice and Procedure in Administrative Hearings, at which the grantee may present evidence and witnesses to show why recovery should not occur. After the conclusion of the hearing, if recovery is warranted, the Department will issue a written Final Order and send a copy of the order to the grantee by Certified US Mail.

l) A grantee may seek judicial review of any Department Final Order in the circuit court, pursuant to the Administrative Review Law.

m) If a grantee timely requests a formal hearing, the Department will not take any action of recovery until at least 35 days after a final recovery order has been issued.

n) If a grantee does not request a timely hearing, the Department may proceed with recovery of the grant funds identified in the notice issued pursuant to this Section at any time after the expiration of the 35-day request period.

o) Any notice or mailing required or permitted by this Section shall be considered received five days after the notice or mailing is deposited in the US mail, addressed to the grantee's current business address, as listed on the grantee's grant agreement, or the grantee's registered agent, and with sufficient US postage affixed, or the date of actual delivery, whichever is sooner.

p) During any formal hearing, the grantee shall be represented by an attorney licensed in the State of Illinois.