## **Section 1130.1110 Conduct of Hearings**

a) All hearings conducted in any proceedings shall be open to the public.

b) Hearings shall commence and proceed with due diligence.

c) Hearings will be conducted by an administrative law judge, appointed by the HFSRB Chairman.

d) The administrative law judge shall conduct hearings; administer oaths; issue subpoenas; regulate the course of hearings; hold informal conferences for the settlement, simplification, or definition of issues; dispose of procedural requests, motions, and similar matters; continue the hearing from time to time when necessary; examine witnesses; and rule upon the admissibility of evidence and amendments to pleadings.

e) In a hearing to consider the denial of a permit or certificate of recognition, the applicant shall have the burden of establishing that the proposed project or application for certificate of recognition, as the case may be, for which application for permit or recognition is made is consistent with the standards, criteria, or plans adopted by HFSRB upon which the finding and decision of HFSRB were made; only testimony and evidence as are relevant shall be offered or accepted.

f) All parties to an administrative hearing shall have the right to give testimony, produce evidence, cross‑examine adverse witnesses and present arguments relevant to the question of consistency and conformity of the proposed project with the adopted standards, criteria or plans upon which the finding and decision of HFSRB were made.

g) The administrative law judge shall direct all parties to enter their appearances on the record.

h) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

i) At any stage of the hearing, or after all parties have completed the presentation of their evidence, HFSRB or its administrative law judge may call upon any party or the technical staff of HFSRB or other departments of State government or State Universities for further material or relevant evidence upon any issue. All parties at interest shall be afforded the right to present further evidence or material, or contradict the evidence or material presented, as per the provisions of the IAPA.

j) The rules of evidence and privilege as applied in civil cases in the Circuit Court of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (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, unduly repetitious material shall be excluded. All admissible evidence shall be considered in accordance with its relative probative value in formulating the final decision of HFSRB and also in formulating the findings of fact and conclusions of law (if any) that support the decision. A copy of the whole or any part of an admissible book, record, paper, or memorandum of HFSRB staff that is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy of such copy. When any material or relevant matter offered in evidence by any party is contained in a book, paper, or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter. If, in the judgment of the administrative law judge, the immaterial or irrelevant matter would unnecessarily encumber the record, the book, paper, or document will not be received in evidence as a whole, but the material or relevant portions, if otherwise admissible, may be read into the record or entered as an exhibit. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

k) Official notice may be taken of matters of which Circuit Courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within HFSRB's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. HFSRB's experience, technical competence and specialized knowledge may be used in the evaluation of evidence.

l) HFSRB's legal counsel and/or the Administrator will arrange for a certified stenographic reporter (court reporter) to make a stenographic record of the hearings in all administrative hearings under this Part. Any persons may make arrangements to obtain a copy of the stenographic record from the reporter.

m) Suggested corrections to the transcript of record may be offered within 10 days after the transcript is filed in the proceedings, unless the Director of IDPH or the administrative law judge permits suggested corrections to be offered thereafter. Suggested corrections shall be served upon or brought to the attention of such party whose appearance is of record or his/her attorney, the official reporter, and the administrative law judge. If suggested corrections are not objected to, the administrative law judge will direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the administrative law judge, who shall then determine the manner in which the record shall be changed, if at all.

n) Written opening arguments and written closing arguments shall not be permitted unless all parties so stipulate.

o) Absent a showing of good cause, no document shall be offered into evidence that was not disclosed in accordance with the requirements in Section 1130.1120, and no witness shall testify whose name was not provided pursuant to Section 1130.1120.  For purposes of this subsection, a showing of good cause shall mean that a party, through no fault of its own, did not have knowledge of a document to be offered into evidence or the name of a witness within the time frame necessary for compliance with Section 1130.1120.

p) If a party, or any person at the insistence of or in collusion with a party, violates any ruling of the administrative law judge, the administrative law judge, on motion, may enter such orders as are just, including, among others, the following:

1) that further proceedings be stayed until the order or rule is complied with;

2) that the offending party be barred from filing any other pleadings relating to any issue to which the refusal or failure relates;

3) that he or she be barred from maintaining any particular claim or defense relating to that issue;

4) that a witness be barred from testifying concerning that issue;

5) that, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that his or her pleading be dismissed without prejudice; or

6) that any portion of his or her pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to the issue.

q) At any time, the administrative law judge may order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or otherwise engaging in conduct that disrupts the hearing.

r) At the request of any party, the administrative law judge may exclude all witnesses from the hearing room, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

(Source: Amended at 38 Ill. Reg. 6347, effective June 1, 2015)