**Section 100.70 Disciplinary Hearings**

a) Charges

1) Written charges approved by the Director seeking an employee's discharge, demotion or suspension totaling more than 30 days in any 12-month period shall contain a specific statement of facts which allege the cause for the proposed action sought against the employee. If a breach of a statutory duty or a rule of the agency is alleged, the statute or rule shall be cited in connection with the charge.

2) Charges shall be set forth in separately numbered paragraphs and contain the dates, names of persons, places and facts necessary to properly allege cause. Charges must be specific enough to apprise the employee of the nature and substance of the cause alleged for the disciplinary action.

b) Motion Objecting to Charges

1) If any party objects to the written charges, motions outlining the objections shall be submitted at least 10 days prior to the date of hearing.

2) The motion specifically shall point out any defects and ask for appropriate relief, such as: that the action be dismissed, or that a charge be made more definite and certain in a specified particular, or that designated immaterial matter be stricken. After ruling on the motion, the Hearings Officer may enter an appropriate order either to permit or require pleading over or amending or terminating the matter in whole or in part.

c) Continuances

1) The Commission, or a Hearings Officer appointed by it to conduct a hearing, may, for good cause shown on timely motion, after notice to the opposite party, extend the time for filing any pleading or papers or may continue the date of a scheduled hearing for a limited period.

2) Motions for extensions or continuances are not timely unless asserted at least 48 hours prior to the time scheduled for filing or hearing except for emergencies.

3) Granting a request for continuance by the employee in a discharge appeal will constitute a voluntary waiver of any claim to compensation for the period of the continuance if the employee is ordered retained or reinstated, except where the complainant files a timely request for continuance and the request for continuance is a result of failure by the respondent to respond in a timely manner prior to the hearing date.

d) Request for List of Witnesses

Upon timely request, either party must furnish to the other party a list of names and addresses of prospective witnesses.

e) Right to Inspect and Interview

Any party or the party's representative shall have the right, upon timely motion, to inspect any relevant documents in the possession of or under the control of any other party and to interview employees having knowledge of relevant facts. Interviews of employees and inspection of documents shall be at times and places reasonable for the employee and for the appointing power.

f) Appearance of Witnesses and Issuance of Subpoenas

1) Upon written request by a party to a contested case, the Commission will issue a subpoena for attendance of a witness or production of books, papers, documents or other tangible objects at a hearing or deposition. Subpoena forms may be obtained by applying to the Office of the Commission.

2) The cost of service and witness and mileage fees shall be borne by the person requesting the subpoena. Witness and mileage fees shall be the same as are paid witnesses in the circuit courts of the State of Illinois.

3) The person requesting a subpoena shall be responsible for its service. A subpoena shall be served reasonably in advance of its return date. The subpoena shall state the telephone number and address of the person initiating its issuance and shall identify the person or evidence subpoenaed and the person to whom and the place, date and time at which it is returnable.

4) Within 5 days after service of a subpoena on any person, the person may file a petition to quash or modify the subpoena, stating reasons in support of such relief. A copy of the petition shall be served at the same time on the person serving the subpoena. Whenever a petition to quash a subpoena is properly filed under this Section, the petitioner shall not be required to respond to the subpoena until the petition has been ruled upon.

5) Any witness subpoenaed for a deposition may be required to attend only in the county in which he or she resides or is employed or transacts business in person or, in the case of a petitioner, in the county in which the action is pending or, for good cause shown, in any other place ordered by the Hearings Officer.

6) Whenever any person shall knowingly fail or refuse to comply with a subpoena served in accordance with this Section, the party serving the subpoena or the Commission shall petition the circuit court pursuant to the Code for an order enforcing the subpoena.

The Code provides that any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any investigation or hearing or who shall knowingly give false testimony shall be guilty of a misdemeanor.

7) The appearance of a party or agent or employee of a party may be secured by merely serving the party with written notice designating the persons required to appear.

g) Pre-Hearing Conference

1) In any action, the Hearings Officer may hold a pre-hearing conference. At the conference, the parties, or their representative, shall appear as the Hearings Officer directs to consider:

A) Simplification of the issues;

B) Amendments to the charges;

C) Possibility of obtaining admissions and stipulations of fact and of documents which will avoid unnecessary proof;

D) Limitation of the number of expert witnesses;

E) Pending motions; or

F) Other matters which may aid in the disposition of the action.

2) The Hearings Officer shall make an order which recites the action taken, any agreement made by the parties as to the matters considered and issues to be heard.

h) Written Interrogatories

1) Any party may direct written interrogatories to any other party, provided that the interrogatories are served 14 days prior to the scheduled hearing date or any continued hearing date. Interrogatories shall be restricted to the subject matter of the particular case.

2) Within 14 days after the service of the interrogatories, an answer or objection shall be made to each interrogatory. If any answer may be obtained from a document in the possession or control of a party, it shall be sufficient to specify that document as an answer.

3) Answers to interrogatories may be used in the same manner in Commission proceedings as depositions.

i) Depositions

Upon order of the Hearings Officer, a deposition of any witness may be taken for use in a Commission proceeding. The deposition may be taken in the manner provided by law for depositions in civil actions in the courts of this State.

j) Written Admissions

A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request, or for the admission of genuineness of any relevant documents described in the request, provided that the request is served 14 days prior to the scheduled hearing date or any continued hearing date. Copies of the documents shall be served with the request unless copies have already been furnished. Failure to answer the request within a 14-day period or any extensions granted shall be deemed as an admission of all items contained in the request.

k) Opening and Closing Statements

Upon the opening of the hearing, the Hearings Officer may allow the petitioner and the respondent to make opening statements. Upon the close of the hearing, each side may make a closing statement orally and/or by written brief at the discretion of the Hearings Officer, incorporating arguments of fact and law.

l) Examination of Adverse Party or Agent

In the hearing of any case, any party or the party's agent may be called and examined as if under cross-examination at the instance of any adverse party. The party calling for the examination may rebut the testimony thus given and may impeach the witness by proof of prior inconsistent statements.

m) Hostile Witnesses

If the Hearings Officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling the witness as if under cross-examination. The party calling an occurrence witness may, upon showing that the witness was called in good faith but that the party is surprised by the witness' testimony, impeach the witness by proof of prior inconsistent statements.

n) Failure to Comply with Orders or Rules

If a party, or any person at the instance of or in collusion with a party, unreasonably refuses to comply with these rules, the Hearings Officer may enter such adverse finding, order or decision as may be necessary to insure just disposition of the matter.

(Source: Amended at 19 Ill. Reg. 206, effective January 3, 1995)