**Section 1105.20 Setting of Representation Hearing**

a) Where a representation petition has been filed and the Illinois Educational Labor Relations Board (the Board) has determined that the petition is supported by an adequate showing of interest and there is reasonable cause to believe that a question of representation exists pursuant to Section 7 of the Act and 80 Ill. Adm. Code 1110.100 a hearing shall be scheduled on any unresolved issues relating to the holding of an election. These issues include (but are not limited to) the scope of the bargaining unit, the exclusion of confidential, supervisory, or managerial employees as defined in the Act, or the existence of a bar to a petition or an election. Where the parties to a representation petition are able to agree to the holding of an election and enter into a consent agreement pursuant to 80 Ill. Adm. Code 1110.100, no hearing will be held.

b) Where a petition to clarify an existing bargaining unit is filed pursuant to 80 Ill. Adm. Code 1110.160 and it presents unresolved issues of material fact, it shall be set for hearing. When the petition does not present unresolved issues of material fact, the Executive Director will rule on the petition without a hearing. A fact is material to the claim or defense in issue when the success of the claim or defense is dependent upon the existence of that fact.

c) Where a petition to amend certification is filed pursuant to 80 Ill. Adm. Code 1110.170 and it presents unresolved issues of material fact, it shall be set for hearing. When the petition does not present unresolved issues of material fact, the Executive Director will rule on the petition without a hearing. A fact is material to the claim or defense in issue when the success of the claim or defense is dependent upon the existence of that fact.

d) Whenever a challenged ballot is determinative of the results of an election, a hearing shall be set when the challenge presents unresolved questions of material fact. Issues shall include (but are not limited to) whether the challenged ballot shall be counted in the final tally of the election. When the challenge does not present unresolved questions of material fact, the Executive Director will rule on the challenge without a hearing.

e) When such a hearing is necessary to resolve issues relating to the holding of an election, challenged ballots, amendment of certification or unit clarification, the Executive Director shall appoint a hearing officer and shall give at least seven days' notice to the parties. That notice shall include:

1) The name of the hearing officer;

2) The nature, location, date and time of the hearing;

3) A statement of the legal authority and jurisdiction under which the hearing is to be held; and

4) A reference to the particular Section of the Act and the rules of the Board involved.

f) Motions to intervene or participate in the hearing, motions for continuances, and motions to revoke or quash subpoenas shall be directed to the hearing officer or, in the event that a hearing officer has not been named, to the General Counsel. All such motions or requests must be in writing, must state with specificity the reasons or grounds for the motion, and must be served on all parties simultaneously with their filing with the hearing officer or General Counsel.

g) Unless otherwise provided in the rules of the Board governing specific types of proceedings, the briefing schedule for all motions shall be as follows:

1) Any supporting brief by the moving party shall be filed and served on all other parties simultaneously with the motion.

2) Other parties shall have seven days to file a response and serve that response on all other parties simultaneously with the filing.

3) The parties must seek leave of the hearing officer to file any additional briefs. The hearing officer will allow the filing of additional briefs upon demonstration that material issues which could not have been anticipated have been raised.

h) Requests for continuances must be made in writing, but need not be submitted as formal motions. Requests for continuances will be granted only for good cause shown, such as the unavoidable absence of a person essential to the hearing, and only when the continuance will not unduly delay the hearings. The party requesting the continuance shall state specifically the reasons that a continuance is being sought and shall state whether the party has discussed the request with all other parties and whether any other party opposes the request. Multiple requests for continuance will be viewed more strictly.

(Source: Amended at 41 Ill. Reg. 10574, effective August 1, 2017)