**Section 1220.40 Charge Processing and Investigation, Complaints and Responses**

a) The Board or its agent shall investigate the charge. The investigation may include an investigatory conference with the parties.

1) The charging party shall submit to the Board or its agent all evidence relevant to or in support of the charge. The evidence may include documents and affidavits. If the charging party does not comply with the agent's requests for information and documents, the agent may recommend dismissal of the charge.

2) Upon request by the Board or its agent, the respondent may submit a complete account of the facts, a statement of its position in respect to the allegations set forth in the charge and all relevant evidence in support of its position. The evidence may include documents and affidavits.

3) If the investigation reveals that the charge involves *an issue of law or* *fact* [5 ILCS 315/11(a)] sufficient to warrant a hearing, the Board or the Executive Director shall issue a complaint for hearing. The complaint shall state the issues that warrant a hearing and shall be served on the respondent and the charging party.

4) If the charge does not state a claim on its face or if the investigation reveals that there is no issue of law or fact sufficient to warrant a hearing, the Executive Director shall dismiss the charge. The charging party may appeal the dismissal in accordance with 80 Ill. Adm. Code 1200.135.

b) Whenever the Executive Director issues a complaint for hearing, the respondent shall file an answer within 15 days after service of the complaint and deliver a copy to the charging party by ordinary mail to the address set forth in the complaint. Answers shall be filed with the Board with attention to the designated Administrative Law Judge.

1) The answer shall include a specific admission, denial or explanation of each allegation or issue of the complaint or, if the respondent is without knowledge thereof, it shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall fairly meet the circumstances of the allegation.

2) The answer shall also include a specific, detailed statement of any affirmative defenses.

3) Parties who fail to file timely answers shall be deemed to have admitted the material facts and legal conclusions alleged in the complaint. The failure to answer any allegation shall be deemed an admission of that allegation. Failure to file an answer shall be cause for the termination of the proceeding and the entry of an order of default. Filing of a motion will not stay the time for filing an answer.

4) Leave to file a late answer shall only be granted by the Administrative Law Judge if the late filing is due to extraordinary circumstances, which will include, among other things: fraud, act or concealment of the opposing party, or other grounds traditionally relied upon for equitable relief from judgments.

(Source: Amended at 27 Ill. Reg. 7436, effective May 1, 2003)