**Section 336.120 The Administrative Law Judge**

a) Appointment of the ALJ

The Chief Administrative Law Judge shall select a trained, impartial ALJ from the available pool to conduct the appeal hearing. The ALJ shall:

1) be an attorney licensed to practice law in the State of Illinois;

2) possess knowledge and information acquired through training and/or experience relevant to the field of child and family welfare law, including familiarity with Department rules, procedures and functions;

3) not have been involved in the decision to take the action being appealed or have rendered legal advice to the decision-maker on the issue; and

4) not have a personal or professional interest that interferes with exercising objectivity or have any bias against the parties or issues appealed. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.

b) Functions of the ALJ

The Administrative Law Judge shall have all authority allowed under the Illinois Administrative Procedure Act [5 ILCS 100]. This authority shall include, but is not limited to, the following:

1) conduct a fair, impartial and formal hearing in which the strict rules of evidence do not apply;

2) provide for the recording of the hearing;

3) inform participants of their individual rights and their responsibilities;

4) conduct pre-hearing telephone conferences between the parties or their authorized representatives to provide information about the procedural aspects of the hearing, narrow the issues and discuss possible stipulations and contested points of law, in order to expedite the actual hearing;

5) have the authority to recommend changes in the child abuse and neglect report in the State Central Register;

6) take necessary steps to develop a full and fair record that contains all relevant facts;

7) administer an oath or an affirmation to all witnesses;

8) quash or modify subpoenas for good cause, including but not limited to relevance, scope, materiality and emotional harm or trauma to the subpoenaed witness;

9) allow into evidence all inculpatory and exculpatory evidence helpful in determining whether an indicated perpetrator abused or neglected a child, including oral and written reports and the investigative file, that the ALJ and the Director may rely upon to the extent of its probative value;

10) allow into evidence previous statements made by the child relating to abuse or neglect as hearsay exceptions;

11) preserve all documents and evidence for the record;

12) rule upon evidentiary issues and contested issues of law at the hearing or take matters under advisement pending issuance of the written opinion and recommendation;

13) order the removal of any person from the hearing room who is creating a disturbance, whether by physical actions, profanity or conduct, that disrupts the hearing;

14) identify the issues, consider all relevant facts and receive or request any additional information necessary to decide the matter in dispute, including but not limited to additional testimony, documents, exhibits, briefs, memoranda of law or post hearing briefs;

15) present a written opinion and recommendation to the Director after the record of the administrative hearing is completed or transcript is received, whichever is later. The written opinion and recommendation shall include a recommended decision on whether there is a preponderance of evidence of abuse or neglect based on information in the administrative record. The opinion shall contain findings of fact, summary of testimony and evidence, conclusions of law and a recommendation; and

16) the written opinion and recommendation must also include the basis for excluding any evidence or disallowing a physician or other professional from testifying by telephone pursuant to Section 336.170 (Testimony by Telephone).

c) The Chief ALJ shall also:

1) ensure that the administrative hearing is scheduled at a time and place reasonably convenient for all parties;

2) provide a written notice to the parties within 10 days after the receipt of a sufficient request for an administrative hearing, that shall contain the following information:

A) the date and time of the pre-hearing conference;

B) the reasons that may be deemed an abandonment of the request for a hearing, thus constituting a waiver of the right to a hearing;

C) a citation to the ANCRA provision that grants the Department of Children and Family Services the legal authority and jurisdiction to hold this hearing;

D) a reference to the particular Sections of the statutes and administrative rules involved;

E) the allegations that were indicated;

F) the consequences of the appellant's failure to participate at the pre-hearing conference;

G) the docket number assigned to this case;

H) the name and contact information of the Administrative Law Judge and all parties; and

I) a statement of the parties' rights during the administrative hearing.

(Source: Amended at 41 Ill. Reg. 15260, effective December 6, 2017)