**Section 338.130 The Administrative Law Judge**

a) Appointment of the Administrative Law Judge

The Administrator of the Administrative Hearings Unit shall select and the Director shall appoint a trained, impartial administrative law judge from the available pool to conduct the appeal hearing. The administrative law judge shall:

1) 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;

2) 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

3) 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 Administrative Law Judge

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 preliminary and pre-hearing telephone conferences, if necessary, between the parties and/or their attorneys 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) take necessary steps to develop a full and fair record which contains all relevant facts;

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

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

8) preserve all documents and evidence for the record;

9) 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;

10) 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 which disrupts the hearing;

11) 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 the submission of briefs, memoranda of law, affidavits or post hearing briefs; and

12) present a written opinion and recommendation to the Director within 30 calendar days after the record of the administrative hearing is completed or transcript is received. This report shall include a recommended decision on whether the Department's decision to deny the appellant's application for a foster home license was correct or incorrect based on information considered at the hearing contained in the administrative record. The opinion shall contain findings of fact, conclusions of law and a recommendation.