**Section 1001.220 Hearings: Notice; Location; Procedures; Record**

a) Notice of Suspension; Right to a Hearing.  Any petitioner who receives a Notice of Suspension in a safety responsibility case may contest the suspension by submitting a written request for a hearing pursuant to Section 7-205 of the Code. Any request for hearing postmarked within 15 days after the mailing date of the Notice of Suspension will stay the effective date of the safety responsibility suspension pending the outcome of the hearing.  Hearing requests received after the 15 day period will be granted; however, the suspension will not be stayed or removed pending the hearing. "Written request" means that the petitioner may send the Office a petition via facsimile, electronic transmission, or regular mail.

b) Filing Fee

1) A petition for a hearing to contest a suspension will not be accepted for filing unless it is accompanied by a fee of $50, as provided in Section 2‑118 of the Illinois Vehicle Code. This filing fee must be submitted by each party who wishes to be made a petitioner in the proceeding, in the form of a money order, a cashier's or certified check, a check drawn on the account of an attorney of record or an attorney professional corporation of record in a hearing before the Department of Administrative Hearings, or a credit card charge (with a pre-approved card), made payable to the Secretary of State.

2) This filing fee will not be refunded to any petitioner if the petitioner withdraws from the hearing or defaults.

3) In cases where a hearing is continued, any petitioner who has paid a filing fee will not be required to submit another filing fee.

4) In cases where a petitioner withdraws, the petitioner will be required to submit a filing fee before another hearing will be scheduled.

c) Decisionmaking Factors; Burden of Proof. The decision resulting from the hearing shall be based upon the following factors: whether the petitioner, as a motor vehicle owner or operator, has been involved, or whose vehicle has been involved, in a motor vehicle accident occurring within the State of Illinois and which has resulted in bodily injury or death of any person or in which damage to the property of any one person exceeds the amount provided by statute; whether petitioner is exempt from the Safety Responsibility Law; and whether there exists a reasonable possibility of a civil judgment against the petitioner. The petitioner shall bear the burden of proof throughout the proceedings. The standard of proof shall be a preponderance of the evidence.

d) Issuance of Notice of Hearing. The hearing shall be initiated by the issuance of a Notice of Hearing by the Secretary. The Notice shall be served upon the petitioner, as the person against whom action may be taken by the Secretary, any interested party, and any attorney of record. The Notice of Hearing may be sent by electronic transmission, if the parties agree to this format.

e) Notice of Hearing − Content. The Notice of Hearing shall be a written statement setting forth, but not limited to, the following information:

1) The name of the petitioner;

2) The name and address of any interested party;

3) The date, time, place, and nature of the hearing;

4) The matters to be addressed at the hearing;

5) The specific Sections of the Statutes involved;

6) The statutory authority pursuant to which the hearing is being conducted;

7) Notice to the petitioner that a failure to appear will result in the denial of any relief requested and that at any rehearing granted under Section 1001.260 the petitioner will be deemed to have waived the right to subpoena or cross-examine witnesses that testified at the original hearing.

f) Location of Hearings; Notice of Change of Location.  Hearings shall be conducted in the Counties of Cook, DeKalb, Madison, Will, Sangamon, Kane, St. Clair, McDonough, and Jefferson and in such other locations as the Secretary shall from time to time designate.  The Secretary reserves the discretion to conduct these hearings by videoconferencing. If the Secretary determines to abandon or change the location of hearings to a location or locations outside the counties specifically listed in this subsection, the Secretary shall publish a notice of the change, at least 20 days prior to the effective date of the change, in a local newspaper of general circulation in each county wherein a location is abandoned or to which a hearing location will be added or moved.  The notice shall indicate the reasons for the determination and shall identify the new location proposed to serve the county, if known at the time of publication.  The hearing site locations, and any change therein, shall also be posted on the Secretary of State website.

g) Parties to a Hearing; Disqualification of Hearing Officer. Every hearing shall be presided over by a hearing officer duly appointed by the Secretary. The Secretary may also appoint a representative to appear and participate in his behalf. Prior to the taking of evidence, a petitioner may request the disqualification of the hearing officer by making a motion for disqualification, stating the specific grounds upon which it is alleged that a fair and impartial hearing cannot be afforded the petitioner by the hearing officer. The hearing officer will rule upon the motion. If the motion is denied, the hearing will proceed. If the motion is granted, the case shall be transferred to another hearing officer for a same day hearing if possible. If not possible, a new hearing date will be established and another hearing officer shall be assigned by the Secretary. The hearing officer shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any petitioner, to examine witnesses, and to rule upon the admissibility of testimony and evidence.

h) Petitioner's Rights. Each petitioner to the hearing and the Secretary of State shall have the following rights:

1) The right to the issuance of subpoenas upon written request directed to the hearing officer at least 10 business days prior to the hearing;

2) The right to call and examine witnesses;

3) The right to cross-examine witnesses on any matter relevant to the issues, even though the matter was not covered on direct examination;

4) The right to introduce exhibits; and

5) The right to obtain in advance, upon written request, copies of all related police reports not designated confidential by State law. Requests must be submitted at least 10 business days prior to the hearing date to be considered. The petitioners may request copies of the related police reports at the hearing if the need for the copies could not be foreseen before the hearing, or the need for them arose because of the issues or allegations adduced at the hearing.

i) Right to Counsel; Attorneys Must Be Licensed; 711 Students. The petitioner shall have the right to appear in person and be heard through an attorney at law licensed to practice in the State of Illinois or any law student licensed under Supreme Court Rule 711. If the petitioner does not testify on his/her own behalf, he/she may be called by the representative of the Secretary and examined as if under cross-examination.

1) Attorneys admitted to practice in states other than the State of Illinois may appear and be heard in a specific hearing, upon the attorney's verbal representations or written documentation as to the attorney's admittance, by special leave of the Director of the Department or the Director's designee, pursuant to an Order pro hac vice, as authorized by Supreme Court Rule 707 and the Illinois Rules of Professional Conduct Rule 5.5, effective January 1, 2010.

2) A natural person may appear and be heard in his/her own behalf.

3) A corporation, association, or partnership may appear and present evidence by any bona fide officer, employee, or representative.

4) Only an attorney mentioned above properly licensed shall represent anyone else in any hearing in any matter involving the exercise of legal skill or knowledge. The standards of conduct shall be the same as before the Courts of the State of Illinois.

j) Recording of Proceedings; Obtaining a Copy of the Record.

1) The proceedings shall be recorded by a suitable electronic method.  The petitioner may furnish, at his/her own expense, a certified shorthand reporter.  All records taken shall be properly cataloged and preserved by the Secretary for a period of at least 45 days from the entry of the hearing officer's order.  A copy of the electronically recorded proceedings shall be available upon the request of the petitioner, any party, or his/her counsel upon advance payment of $25 by the requesting party, to cover the cost of making a copy of the recording plus mailing.

2) Persons who are not a party to a proceeding may obtain a copy of the file, a document in the file, or a transcript of the proceeding by filing with the Department a request for the record pursuant to, and subject to the restrictions and exemptions in, the Freedom of Information Act [5 ILCS 140].

k) Record of a Hearing. The record of a hearing held pursuant to this Section shall include, but not be limited to, the following:

1) The notices, pleadings, and responses to pleadings;

2) The motions and rulings on motions;

3) The matters officially noticed;

4) The offers of proof made and objections to and rulings on those offers;

5) The opinions, recommendations, or reports by the hearing officer, Secretary, or Department; and

6) An electronic or digital recording of the proceedings.

l) Interpreters. The Secretary will provide, upon prior written request, an interpreter for hearing impaired petitioners and interested parties who wish to testify. However, it is the responsibility of the petitioner or interested parties to provide a language interpreter.

(Source: Amended at 40 Ill. Reg. 834, effective December 31, 2015)