**Section 1001.760 Hearing Procedures**

a) Receipt of a Notice of Protest shall be handled as follows:

1) Any Notice of Protest received by the Secretary will be sent to the Chairperson, who shall review the notice to see if it has been timely filed, complies with Section 1001.750, and falls under the purview of the Act. A copy shall also be sent to the respondent.

2) If the notice meets all of the above requirements:

A) The Chairperson will assign a monitor and a hearing officer to the case. The hearing officer will be selected from a list of possible hearing officers supplied by the Secretary. The selection shall be made on a rotating basis taking into consideration the expertise and qualifications needed for each case.

B) The Chairperson will have the Secretary enter an order setting the date, time, and place of the hearing. This date must be within 60 days after the date of the order. The hearing will be held at a location determined by the Secretary. Any motion to dismiss or strike the Notice of Protest must be filed within 21 days after the date of receipt of the order setting the hearing.

C) The hearing officer may continue the hearing date more than 90 days after the date of the Board's initial order scheduling the hearing only if the parties agree to the continuance and the hearing officer finds that, due to the complexity of the issues involved, a meaningful hearing could not be held before then.

D) The hearing officer will ensure that the fees required by Section 1001.790(a), have been paid by both the complainant and the respondent or, if not paid, enter a judgment for fees accordingly.

3) If the notice does not meet all of the requirements of subsection (a)(1), the Chairperson will have the Secretary notify the complainant and the respondent of the defect and no hearing will be set.

4) If the Chairperson determines that the Notice of Protest does not fall under the purview of the Act in that the alleged violation is not under the Act or that an exception under the Act applies:

A) The complainant will be so notified and given 14 days to respond. If no response is received within that time, the Chairperson shall cause a summary order to be entered denying the relief requested, which shall be a final, appealable order.

B) If a response is received, as provided in Section 1001.750, copies of the file will be given to each Board member who will review the matter and recommend to the Chairperson whether there appears to be a reasonable possibility that a violation of the Act occurred.

i) If a majority of the Board determines that there is such a reasonable possibility, a hearing shall be scheduled.

ii) If a majority of the Board determines that there is not such a reasonable possibility, the Chairperson shall cause a summary order to be entered denying the relief requested. This will be a final appealable order.

b) All hearing-related issues, such as rules of evidence, discovery, continuances, etc., are governed by Section 29 of the Act. To the extent that an issue is not covered in that Section, the administrative hearing rules found in Subpart A shall govern. Specifically, the disqualification of a hearing officer will be in accordance with Section 1001.100(b). Enforcement of discovery procedures shall comply with Illinois Supreme Court Rule 219.

c) The standard of proof is by the preponderance of the evidence.

d) Once a matter is scheduled for hearing, the filing of subsequent pleadings and other documents in the matter may be accomplished by serving a copy each upon the hearing officer and the other party at their respective addresses of record and three copies upon the Secretary in the manner and at the location identified in Section 1001.750.

e) Once the proposed decision is served upon the parties, any party wishing to file exceptions and present a brief to the Board may do so by serving one original and five copies upon the Secretary in the manner and location identified in Section 1001.750 and sending a copy to the other party. Upon receipt of those documents, the Secretary will forward the documents to the Board members, who shall review the exceptions and briefs. The monitor will then make a recommendation to the full Board. The monitor may consult with the hearing officer who heard the case.

f) If a case ends in a settlement or otherwise by agreement of the parties, the parties may waive, in writing or on the record, the 10-day statutory period for filing exceptions and briefs. In that case, the hearing officer shall so note in the proposed decision. Upon receipt of the proposed decision, the Secretary shall forward it directly to the Chairperson, who will then enter a final order on behalf of the Board.

(Source: Amended at 47 Ill. Reg. 10998, effective July 10, 2023)