

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER n: DISPUTE RESOLUTION

PART 475
CONTESTED CASES AND OTHER FORMAL HEARINGS

SUBPART A: HEARINGS BEFORE THE STATE EDUCATOR PREPARATION AND
LICENSURE BOARD

Section

475.10	Authority and Applicability
475.20	Filing and Form of Documents
475.30	Requirements for Service of Documents
475.40	Notice of Opportunity for Hearing
475.50	Hearing Officer: Qualifications, Powers and Duties, and Appointment
475.60	Appearance of Parties
475.70	Pre-Hearing Conferences
475.80	Motions
475.90	Discovery
475.100	Notice of Hearing
475.110	Hearings
475.120	Orders

SUBPART B: HEARINGS FOR OTHER CONTESTED CASES

Section

475.210	Authority and Applicability
475.220	Filing and Form of Documents
475.230	Requirements for Service of Documents
475.240	Notice of Opportunity for Hearing
475.250	Hearing Officer: Qualifications, Powers and Duties, and Appointment
475.260	Appearance of Parties
475.270	Pre-Hearing Conferences
475.280	Motions
475.290	Depositions and Discovery
475.300	Notice of Hearing
475.310	Hearings
475.320	Orders

AUTHORITY: Implementing Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and Sections 21B-15 and 21B-75 of the School Code [105 ILCS 5/21B-15 and 21B-75] and authorized by Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i)].

SOURCE: Old Part repealed at 36 Ill. Reg. 14769, effective September 21, 2012; new Part adopted at 36 Ill. Reg. 14771, effective September 21, 2012; amended at 37 Ill. Reg. 8140, effective June 6, 2013.

SUBPART A: HEARINGS BEFORE THE STATE EDUCATOR PREPARATION AND
LICENSURE BOARD

Section 475.10 Authority and Applicability

- a) This Subpart A is authorized by Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i)].
- b) This Subpart A shall apply to all administrative cases under the jurisdiction of the State Educator Preparation and Licensure Board (SEPLB) pursuant to Section 21B-15 or Section 21B-75 [105 ILCS 5/21B-15 or 21B-75] of the School Code, except as provided in this subsection (b) or in subsection (c) of this Section. Administrative cases pursuant to Section 21B-15 of the School Code heard under this Subpart A shall be limited to those in which an individual is alleged to have knowingly altered or misrepresented his or her teaching qualifications in order to acquire a license.
- c) Pursuant to Section 21B-15 of the School Code, the State Superintendent may recommend that any other license held by an individual alleged to have knowingly altered or misrepresented his or her teaching qualifications in order to acquire a license be suspended or revoked by the SEPLB depending on the severity of the alleged alteration or misrepresentation. Pursuant to Section 21B-75 of the School Code, the State Superintendent may recommend that a license be revoked or suspended, or that professional development be required in lieu of or in addition to revocation or suspension, for those bases set forth in Section 21B-75. For purposes of this Subpart A, "revocation" shall mean the permanent removal of a license and "suspension" shall mean the temporary removal of a license for a period of up to five calendar years.
- d) When statutes or other rules applicable to the Illinois State Board of Education (ISBE) or the SEPLB contain practices different from those set forth in this Subpart A, then those separate statutes and rules shall apply. Examples include, but are not limited to, proceedings related to the renewal of licenses under Section 21-14 of the School Code [105 ILCS 5/21-14(h)(2)] and pursuant to 23 Ill. Adm. Code 25 (Educator Licensure).
- e) For the purposes of this Subpart A, all references to "license" shall be understood to mean a certificate issued under Article 21 of the School Code [105 ILCS 5/Art. 21], a license (i.e., professional educator license, educator license with stipulations, or substitute teaching license) issued under Article 21B of the School Code [105 ILCS 5/Art. 21B], or any approval issued by ISBE in accordance with 23 Ill. Adm. Code 25.

(Source: Amended at 37 Ill. Reg. 8140, effective June 6, 2013)

Section 475.20 Filing and Form of Documents

- a) Documents and requests permitted or required to be filed with the SEPLB or hearing officer appointed by the SEPLB in connection with a hearing pursuant to this Subpart A shall be addressed and mailed or personally delivered to the Secretary of the SEPLB, 100 North First Street, Springfield, Illinois 62777, unless another address or an alternative means of filing (such as electronic transmission or submission of facsimile copies) is designated in any order of the SEPLB or hearing officer appointed by the SEPLB. The office of the SEPLB is open for filing of documents from 8:00 a.m. to 5:00 p.m., Monday through Friday, except on federal and State legal holidays. Except as otherwise provided, a copy of all documents, including notices, motions, and petitions, shall be simultaneously filed with the designated hearing officer, if any, and the General Counsel to the ISBE (General Counsel) at 100 North First Street, Springfield, Illinois 62777 and to litigation counsel for the State Superintendent.
- b) Documents shall clearly state a title for the proceedings in connection with which they are filed. Documents shall be presented in letter-quality print on one side only of letter-sized paper, and one copy of each document filed shall be signed by the party or by the party's authorized representative.
- c) Computation of any period of time prescribed by this Subpart A or any other applicable requirement shall begin with the first ISBE business day following the date of filing of the document with the Secretary of the SEPLB and shall run until the end of the last day, or the next following ISBE business day if the last day is a Saturday, Sunday or legal holiday. The date of filing for any notice referenced in this Subpart A shall be determined in accordance with Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25].

Section 475.30 Requirements for Service of Documents

- a) Unless otherwise provided for in this Subpart A, service of any documents may be made by personal delivery; by delivery through the United States Postal Service, postage prepaid, addressed to the last known address of the party; or by electronically using the party's email address. Service by electronic mail is preferred. Parties having access to email are encouraged to serve documents via email. The hearing officer shall set any parameters for the use of email to serve documents to ensure the service is completed properly.
- b) The person serving the document shall certify to the manner and date of service in the following form:

I certify that I served the foregoing by (state method of delivery) on _____, 20____, addressed to the following at the address shown:

Signature

- c) If service is made by a non-attorney, the certificate of manner and date of service shall be subscribed and sworn to before a notary public.

Section 475.40 Notice of Opportunity for Hearing

- a) All actions conducted under the jurisdiction of the SEPLB shall be initiated when the State Superintendent of Education issues a written Notice of Opportunity for Hearing. The Notice shall be served by the State Superintendent or designee upon the licensee and the Secretary of the SEPLB.
- b) The Notice of Opportunity for Hearing shall include:
 - 1) A Statement of Charges alleged against the licensee, which shall consist of:
 - A) a short and plain statement of the material allegations asserted,
 - B) the citations to the statutes and rules that the licensee allegedly violated, and
 - C) the sanction recommended by the State Superintendent of Education;
 - 2) The legal authority and jurisdiction under which the hearing is to be held;
 - 3) The address to which a licensee shall send the request for hearing in accordance with subsection (e) of this Section;
 - 4) A statement that failure to request a hearing within 10 days after receipt of the Notice of Opportunity for Hearing shall result in the recommended sanction set forth in the Notice immediately taking effect; and
 - 5) A statement that upon the final order of the SEPLB to revoke or suspend a license, the SEPLB or its designee shall report the final disposition of the licensee to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse or its agent.
- c) The service of a Notice of Opportunity for Hearing on the licensee shall be complete when it has been:
 - 1) served in person; or
 - 2) sent by certified or registered United States Mail, addressed to the last known address of the licensee; or

- 3) if service as described in subsection (c)(1) or (c)(2) of this Section cannot be perfected, then a Notice of Opportunity for Hearing shall be sent via regular United States Mail to the last known address of the licensee, and the State Superintendent shall cause publication to be made in some newspaper published in the county of the last known address of this person. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining county in this State having a circulation in the county in which action is pending. The publication shall contain, at a minimum, notice of the pendency of the State Superintendent's action; reference to the SEPLB as the relevant tribunal; the name of the Secretary of the SEPLB; the name of the licensee; and the date on or after which default may be entered against the licensee. Pursuant to this subsection (c)(3), and for purposes of subsection (d) of this Section, receipt shall be deemed to occur upon publication.
- d) If and once a licensee has requested a hearing in accordance with subsection (e) of this Section, any subsequent documents related to the matter that are served via regular United States Mail shall be sent to the address provided by the licensee on his or her written request.
- e) If a licensee receiving a Notice of Opportunity for Hearing wishes to request a hearing, then he or she must file a written request for hearing within 10 days after receipt.
 - 1) The written request for hearing shall be addressed to the State Superintendent of Education or designee, 100 North First Street, Springfield, Illinois 62777, unless another address or an alternative means of filing (such as electronic transmission or submission of facsimile copies) is designated in the Notice of Opportunity for Hearing.
 - 2) *If the State Superintendent does not receive from an individual a request for a hearing within 10 days after the individual receives notice, the suspension or revocation shall immediately take effect in accordance with the notice. [105 ILCS 5/21B-75]*
- f) When the request for hearing is received, the State Superintendent or designee shall notify the Secretary of the SEPLB and request a hearing officer be designated in accordance with Section 475.50 of this Part.

Section 475.50 Hearing Officer: Qualifications, Powers and Duties, and Appointment

- a) When a hearing is requested in accordance with Section 475.40(e) of this Part, the SEPLB or its designee may appoint a hearing officer.
- b) For the purposes of this Subpart A, a “hearing officer” is defined as either the individual so appointed by the SEPLB or, when none is appointed, the SEPLB as a whole. The hearing officer shall be an attorney licensed to practice law in Illinois (see 5 ILCS 100/10-20) and, at the direction of the SEPLB, may either preside over the hearing in the presence of the SEPLB or conduct an independent hearing. When a hearing officer is appointed, the parties shall be notified. When no hearing officer is appointed, all authority to conduct the hearing pursuant to this Subpart A shall be exercised by the SEPLB.
- c) The hearing officer shall have all powers necessary and appropriate to conduct a fair, full and impartial hearing, including without limitation the following:
 - 1) To exercise the power of the State Superintendent of Education to issue subpoenas pursuant to any applicable statute;
 - 2) To initiate, schedule, and conduct pre-hearing conferences, and issue related orders, pursuant to Section 475.70 of this Part;
 - 3) To rule upon requests by either party for discovery in accordance with Section 475.90 of this Part;
 - 4) To hold conferences for the settlement or simplification of the issues;
 - 5) To regulate the course of the hearing and the conduct of the parties and their counsel during the hearing;
 - 6) To administer oaths and affirmations;
 - 7) To receive offers of proof and relevant evidence;
 - 8) To consider and rule upon procedural requests;
 - 9) To rule upon motions, objections, and evidentiary questions;
 - 10) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony,

and set reasonable limits on the amount of time each witness may testify;
and

- 11) To make decisions in accordance with applicable law and rules.
- d) *Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis, no agency employee or hearing officer shall, after notice of hearing pursuant to this Part, communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or representative except upon notice and opportunity for all parties to participate. However, an agency member may communicate with other members of the agency, and an agency member or hearing officer may have the aid and advice of one or more personal assistants. [5 ILCS 100/10-60]*
 - e) Disqualification
 - 1) When a hearing officer deems himself or herself disqualified to preside over a particular hearing, he or she shall withdraw by notice on the record directed to the Secretary of the SEPLB.
 - 2) The SEPLB, on its own motion or the motion of any party, may disqualify a hearing officer for bias or conflict of interest as provided under Section 10-30(b) of the Illinois Administrative Procedure Act [5 ILCS 100/10-30(b)], for physical or mental incapacity, or for persistent failure to meet statutory or other timelines. A party's motion shall be supported by affidavits setting forth the alleged grounds for disqualification. A motion by the SEPLB shall state the alleged grounds for disqualification.
 - 3) In the event that a hearing officer is disqualified, the SEPLB or its designee shall appoint a new hearing officer in accordance with subsection (b) of this Section.
 - f) Failure or Refusal to Appear or to Obey the Rulings of a Hearing Officer
 - 1) Contumacious or improper conduct at any hearing before the hearing officer may be grounds for exclusion from the hearing.
 - 2) If a witness or a party refuses to answer a question after being directed to do so or refuses to obey an order to provide or to permit discovery, then the hearing officer may make any orders with regard to the refusal as are just and appropriate, including an order regulating the contents of the

record of the hearing or recommending the sanction recommended by the State Superintendent in the Notice of Opportunity for Hearing.

- g) At the request of any party, the hearing officer shall exclude all witnesses from the hearing room, except that, at any time, one representative of each party in addition to counsel shall be allowed to be present, even if that representative is also a witness. Individuals who are not witnesses are not affected by this subsection (g).
- h) On any procedural question not regulated by this Subpart A, the appropriate Act, or the Illinois Administrative Procedure Act [5 ILCS 100], a hearing officer may be guided to the extent practicable by any pertinent provisions of the Illinois Supreme Court Rules or the Illinois Code of Civil Procedure [735 ILCS 5].

Section 475.60 Appearance of Parties

Any person entitled to participation in the proceedings may appear as follows:

- a) A natural person may appear on his or her own behalf or by an attorney designated in writing; and
- b) An attorney appearing on behalf of a party shall file a written notice of appearance.

Section 475.70 Pre-Hearing Conferences

- a) Convening a Conference: Within 10 ISBE business days following the appointment of the hearing officer, the hearing officer shall contact the parties or their counsel for the purpose of scheduling an initial pre-hearing conference with the hearing officer that shall take place within the next 30 ISBE business days to consider:
 - 1) Simplification of the issues;
 - 2) The date by which the licensee shall file an Answer to the Statement of Charges, if the licensee intends to do so in accordance with Section 475.80(a) of this Part;
 - 3) A schedule for each party to file requests for any applicable discovery;
 - 4) Necessity or desirability of amendment to documents for purposes of clarification, simplification or limitation;
 - 5) Stipulations, admissions of fact and of contents, and authenticity of documents;
 - 6) Limitation of the number of witnesses;
 - 7) Prior mutual exchange between and among the parties who have prepared testimony or exhibits; and
 - 8) Other matters as may tend to expedite disposition of the proceedings and assure a just conclusion of the proceedings.
- b) Subsequent pre-hearing conferences may be held upon the hearing officer's own motion or the motion of a party.
- c) Record of Conference: The hearing officer shall make an order that recites the action taken at any conference held, the amendments allowed to any documents that have been filed, and the agreements made between the parties as to any of the matters considered. This order shall limit the issues for hearing to those not disposed of by admissions or agreements, and the order, when entered, shall control the subsequent course of the hearing unless modified by subsequent order of the hearing officer to prevent manifest injustice.

Section 475.80 Motions

- a) A written answer to the Statement of Charges is not required; however, if a licensee desires to file a written answer, then he or she shall file that answer by the deadline set in any scheduling order established by the hearing officer at the initial pre-hearing conference (see Section 475.70(a) of this Part). Failure to file an answer shall be deemed a general denial of matters asserted.
- b) Unless made orally on the record during a hearing, or unless the hearing officer directs otherwise, a motion shall be in writing. A written brief may be filed in support of a motion, and a response to a motion may take the form of a written brief, stating the arguments and authorities relied upon. Any written brief shall be accompanied by any affidavits or other evidence relied upon and, when appropriate, by a proposed order. Motions and any supporting briefs shall be filed and served in accordance with Sections 475.20 and 475.30 of this Part.
- c) Within seven days after service of a written motion, or other period of time as the hearing officer may prescribe, owing to the complexity of the issues involved, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence.
- d) Any motions contesting jurisdiction or otherwise seeking dismissal of a matter shall be filed no later than 21 days prior to the date of the hearing.
- e) No oral argument shall be heard on a motion unless the hearing officer directs otherwise. If oral argument is permitted, then the hearing officer shall issue an order setting a date, time, and place for the argument. The hearing officer, in his or her sole discretion, may select the mode of communication for any such oral argument (e.g., telephone conference, video-conference, in-person).
- f) A written motion shall be disposed of by written order by the hearing officer, with notice to all parties.
- g) Prior to the commencement of any hearing, the State Superintendent may file a written motion seeking to amend the Statement of Charges. This motion may be granted by the hearing officer for reasons including, but not limited to, the discovery of new evidence. If the State Superintendent is granted leave by the hearing officer to file an amended Statement of Charges, then, unless otherwise agreed to by the parties, any hearing date previously set shall be stricken and re-set for a new date at least 30 days after the amended Statement of Charges is received by the licensee. The hearing officer, in the order granting leave to the State Superintendent to amend the Statement of Charges, shall include any

changes to the pre-hearing schedule resulting from an amended Statement of Charges.

- h) The hearing officer shall rule upon all motions prior to the presentation of evidence or testimony at the hearing, except that a hearing officer shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record. A hearing officer shall submit any recommendation on a licensee's motion for dismissal to the SEPLB, with a copy submitted to the parties of record, setting forth his or her legal and factual bases for the recommendation. Each party of record shall be allowed 14 days from receipt of the recommendation in which to submit exceptions to the recommendation and to present a brief to the hearing officer in support of the position of the party. If a party files an exception within 14 days, the other party shall be permitted seven days from the date the first party filed the exception to file its own exception. If the SEPLB denies the hearing officer's recommendation to dismiss, then it shall order the hearing officer to continue with the hearing in accordance with Section 475.110 of this Part. If the SEPLB grants a party's motion to dismiss, then it shall enter an appropriate order.
- i) Subject to the granting of a motion to amend the Statement of Charges, as referenced in subsection (g) of this Section, and unless otherwise ordered by the hearing officer, the filing of an answer or granting of a motion shall not stay the proceeding or extend the time for the performance of any act.
- j) A hearing may be postponed or continued for good cause by the hearing officer upon the hearing officer's own motion or upon motion of a party to the hearing. The motion of the party shall set forth facts attesting that the request for continuance is not for the purpose of undue delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repeated postponements or continuances so that the subject matter may be resolved expeditiously.

Section 475.90 Discovery

- a) Within 14 business days after a hearing officer has been appointed, the State Superintendent shall provide the licensee the full investigative file pertaining to the matters at issue, excluding only documents that are protected by a specific privilege. Parties shall exchange, and provide a copy to the hearing officer of, the documents or exhibits to be used at the hearing and list of witnesses to be called at the hearing no later than 14 days prior to the hearing, or by a deadline otherwise set by the hearing officer.
- b) Evidence depositions may be taken with approval of the hearing officer for reasons of unavailability or for other good cause shown. The depositions may be taken orally before any person designated by the hearing officer and having the power to administer oaths. Any party desiring to take the evidence deposition of a witness shall make application in writing to the hearing officer, supported by affidavit, setting forth:
 - 1) The reasons why the deposition should be taken, including the reasons why the evidence deposition should be allowed in lieu of live testimony at the hearing; that is, a statement as to why the witness shall be unavailable to testify at hearing, or what other good cause exists to allow the witness to testify through an evidence deposition rather than live testimony at the hearing;
 - 2) The time when, the place where, and the name and post office address of the person before whom the deposition is to be taken;
 - 3) The name and address of each witness; and
 - 4) The subject matter concerning which the witness is expected to testify.
- c) Discovery depositions may be taken with approval of the hearing officer, under the following circumstances.
 - 1) A party desiring to take the discovery deposition of a witness may make application in writing to the hearing officer, setting forth:
 - A) the reasons why the deposition should be taken, including that, to the best of the party's knowledge, the individual to be deposed has not testified previously in a related matter such as a trial or other hearing;

SUBTITLE A

SUBCHAPTER n

- B) that the deposition is necessary for a just disposition of any issue in a hearing;
 - C) the time when, the place where, and the name and post office address of the person before whom the deposition is to be taken;
 - D) the name and address of each witness; and
 - E) the subject matter concerning which the witness is expected to testify, for the purpose of allowing the hearing officer to determine if the deposition should be pursued.
- 2) The hearing officer may allow a party to take a discovery deposition upon a finding that:
- A) the individual to be deposed has not testified previously in a related matter such as a trial or other hearing; and
 - B) the deposition is necessary for a just disposition of any issue in a hearing.
- d) Notwithstanding anything to the contrary in subsection (c) of this Section, the parties shall have the right to conduct a deposition of an expert witness (only if the expert witness has been identified as a witness who will testify at the hearing) and may do so by providing notice to the other party and the hearing officer, setting forth:
- 1) The time when, the place where, and the name and post office address of the person before whom the deposition is to be taken; and
 - 2) The name and address of the expert witness.
- e) Any depositions shall be conducted pursuant to the Illinois Code of Civil Procedure [735 ILCS 5]. Depositions may be taken by contemporaneous transmission from a different location (i.e., video-conference technology) by agreement of the parties. Any notice of deposition shall be given by the party taking the deposition to every other party.
- f) The hearing officer shall allow for interrogatories and requests for production of documents, provided that:

- 1) A party may not serve more than 30 interrogatories, including subparts on any other party, except upon agreement of the parties or leave of the hearing officer granted upon a showing of good cause; and
 - 2) Interrogatories and requests for production shall be restricted to the subject matter of the Statement of Charges or defense and shall avoid placing undue detail, excessive burden, or expense on the answering party.
- g) The hearing officer may allow for other discovery if appropriate to a just disposition of any issue in a hearing.

Section 475.100 Notice of Hearing

- a) A Notice of Hearing shall be issued by the hearing officer and shall be served no fewer than 30 days before the day designated for the hearing, unless otherwise agreed to by all parties to a matter.
- b) A Notice of Hearing served under this Section shall include:
 - 1) The time and location of the hearing.
 - A) The location of the hearing shall be *in the educational service region where the educator is or was last employed* [105 ILCS 5/21B-75].
 - B) Alternatively, upon request by the licensee, the location of the hearing may be held in a location agreed upon by all of the parties to the hearing.
 - 2) The name of the hearing officer, if any, to preside over the hearing, and the hearing officer's address.

Section 475.110 Hearings

- a) The location of the hearing shall be the location included on the Notice of Hearing (see Section 475.100(b)(1) of this Part). All hearings shall be public unless required by statute or if the hearing officer determines, in his or her sole discretion, that the circumstances at any hearing warrant closure of the hearing in whole or in part.
- b) The following shall be the order of proceedings of all hearings, subject to modification by the hearing officer for good cause:
 - 1) Presentation, argument, and disposition of motions preliminary to a hearing on the merits of the matters raised in the Notice of Opportunity for Hearing and Statement of Charges or answer;
 - 2) Presentation of the State Superintendent's opening statement;
 - 3) Presentation of the licensee's opening statement;
 - 4) The State Superintendent's case;
 - 5) The licensee's case;
 - 6) The State Superintendent's rebuttal, if any;
 - 7) The licensee's rebuttal, if any;
 - 8) The State Superintendent's closing statement;
 - 9) The licensee's closing statement;
 - 10) Presentation and argument of all motions prior to final order;
 - 11) Presentation of written briefs pursuant to subsection (j) of this Section; and
 - 12) Filing of proposed findings of fact and conclusions of law, and recommendations of the hearing officer.
- c) The State Superintendent of Education shall have the burden of proof. *The standard of proof for any administrative hearing held pursuant to this Subpart A shall be by the preponderance of the evidence.* [105 ILCS 5/21B-75]

- d) Failure of a party to appear on the date set for the hearing or failure to proceed at the hearing as ordered by the hearing officer may, at the sole discretion of the hearing officer, constitute a default. In the case of a default, the hearing officer shall enter the findings, opinions, and recommendations as are appropriate based on the pleadings and evidence received into the record.
- e) Evidence
- 1) A party shall be entitled to present the party's case or defense and oral or documentary evidence, to submit rebuttal evidence, and to conduct any cross-examination as may be required for full and true disclosure of the facts. Any oral or documentary evidence may be received but a presiding hearing officer may exclude evidence that is *irrelevant, immaterial or unduly repetitious. The rules of evidence and privileges applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except where excluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a hearing officer may allow evidence to be received in written form.* [5 ILCS 100/10-40]
 - 2) The testimony of a witness shall be under oath or affirmation administered by the hearing officer or a certified court reporter.
 - 3) If a party objects to the admission or rejection of any examination, or to the failure to limit its scope, then the party shall state briefly the grounds for the objection. Rulings on all objections shall appear in the record. When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the hearing officer shall admit the evidence subject to the right of the hearing officer to strike the evidence from the record either during the hearing or as a part of the proposed findings of fact and conclusions of law if the hearing officer determines that it was improperly admitted, in which case it shall not be considered in making proposed findings of fact, conclusions of law, and recommendations.
 - 4) Formal exception to an adverse ruling is not required.
 - 5) A hearing officer may, for good cause shown in compelling circumstances and upon appropriate safeguards, permit presentation of testimony at

hearing by contemporaneous transmission from a different location (i.e., video-conference technology).

- A) Good cause or compelling circumstances include when a witness is unexpectedly unable to attend the hearing, such as due to accident or illness, but is still able to testify remotely. Good cause can be established by agreement between the parties, and advance notice should be required.
 - B) Adequate safeguards are necessary to ensure accurate identification of the witness and protect against influences by other people present with the witness.
- f) Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of this fact. *In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the SEPLB. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the facts so noticed. The SEPLB's expertise, technical competence and specialized knowledge of the SEPLB may be utilized in the evaluation of the evidence.* [5 ILCS 100/10-40(c)]
- g) Hostile or Adverse Witness
- 1) If the hearing officer determines that a witness is hostile or unwilling or adverse, then the witness may be examined by the party calling the witness as if under cross-examination.
 - 2) The party calling an occurrence witness, upon the showing that the party called the witness in good faith and is surprised by the witness' testimony, may impeach the witness by proof of prior inconsistent statements.
- h) *Oral proceedings or any part thereof shall be recorded* [5 ILCS 100/10-35(b)] by a certified court reporter. These records shall be transcribed either:
- 1) upon written application filed with the reporter or hearing officer by any party and upon the payment of fees at the rate provided in the agreement with the reporter or as established by the State Superintendent of Education, or

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- 2) upon receipt of summons in administrative review or an order of a court, with payment of fees when allowed or required by statute. Any recording or transcription shall be retained through and including the time allotted for appeal, revision, re-hearing, or other manner of review, prior to final disposition as provided for by the SEPLB or by law.
- i) The official record of each hearing conducted pursuant to this Subpart A shall consist of the items enumerated in Section 10-35(a) of the Illinois Administrative Procedure Act [5 ILCS 100/10-35(a)] and shall be maintained by the Secretary of the SEPLB.
- j) The hearing officer shall allow parties to submit written briefs within 21 days after the close of the hearing or any other reasonable time as the hearing officer shall determine.

Section 475.120 Orders

- a) Consent Orders: At any time, the parties shall be afforded a reasonable opportunity to negotiate a settlement agreement containing consent findings and a rule or order disposing of the whole or any part of the proceedings. The parties shall notify the hearing officer that they have entered into settlement discussions or negotiations or have entered into an agreement disposing of the proceedings. Consent orders may constitute an agreement by the State Superintendent to amend the charges against the licensee, including the facts alleged and the recommendation for sanction, and shall constitute an agreement by the licensee to waive his or her request for a hearing.
- 1) Any agreement containing consent findings and rules or orders disposing of a proceeding shall also provide:
 - A) That the rule or order shall have the same force and effect as if made after a full hearing;
 - B) That the entire record on which any rule or order may be based shall consist solely of the Statement of Charges and the agreement;
 - C) A waiver of any further procedural steps before the hearing officer; and
 - D) Waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.
 - 2) Any agreement reached by the parties in a case under this Subpart A shall be submitted as a consent order to the hearing officer for approval. Subject to subsection (a)(3) of this Section, upon approval of the agreement, the hearing officer shall forward it to the Secretary of the SEPLB for approval by the SEPLB.
 - 3) The hearing officer and the SEPLB shall approve an agreement entered into by the parties unless the hearing officer or the SEPLB has evidence that one or more of the parties did not understand the terms of the agreement or was unduly influenced to enter into the agreement, or if the agreement is otherwise in violation of applicable law. Should either the hearing officer or the SEPLB reject a proposed consent order in accordance with this subsection (a)(3), the hearing officer or SEPLB must provide a written order explaining the basis for the rejection.

- b) Hearing Officer's Recommendations
- 1) Initial Recommendations: Within 30 days after the later of the close of a hearing or the filing of written closing briefs, the hearing officer shall issue proposed findings of fact and conclusions of law, and make recommendations by way of a proposed order that complies with Section 10-45 of the Illinois Administrative Procedure Act [5 ILCS 100/10-45]. These recommendations shall be made upon consideration of the record as a whole or any portion of the record as may be supported by competent, material and substantial evidence.
 - 2) Opportunity to File Exceptions: The hearing officer shall forward a copy of the proposed findings of fact, conclusions of law, and recommendations to each party of record in the hearing and each party of record shall be allowed 21 days from the date the decision is sent via certified or electronic mail in which to submit exceptions to the findings of fact, conclusions of law, and recommendations of the hearing officer and to present a brief to the hearing officer in support of the position of the party. If a party files an exception within 21 days, then the other party shall be permitted 14 days from the date the first party filed the exception to file its own exception.
- c) Final Order: The hearing officer shall present his or her proposed order in person to the SEPLB at either the first or the second next regularly scheduled meeting immediately following the last date by which a party is permitted to file an exception to the hearing officer's initial recommendation. Upon the hearing officer's presentation of his or her proposed order to the SEPLB, the SEPLB shall review the record and the hearing officer's findings of fact, conclusions of law, and recommendations, together with any exceptions thereto and briefs in support thereof, and shall, within 30 days from the hearing officer's presentation, issue a final order that complies with Section 10-50 of the Illinois Administrative Procedure Act [5 ILCS 100/10-50], accepting, rejecting or modifying the hearing officer's recommendation. The Secretary of the SEPLB is authorized to sign final orders on behalf of the SEPLB. The parties shall be immediately notified either personally or by mail, postage paid, certified or registered, addressed to the last known address of each party. A copy of the order shall be delivered or mailed to each party and to the attorney of record for that party. Each agency order shall specify whether it is final and, if so, that it is subject to the Administrative Review Law [735 ILCS 5/Art. III].

- d) Parties to the hearing are permitted to be present at the hearing officer's presentation to the SEPLB and may address the SEPLB during any public participation segment of the SEPLB meeting for a period of up to five minutes.
- e) Upon final order of the SEPLB to revoke or suspend a license, the Secretary of the SEPLB or his or her designee shall report the final disposition of the license to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse or its agent.

SUBPART B: HEARINGS FOR OTHER CONTESTED CASES

Section 475.210 Authority and Applicability

- a) This Subpart B is authorized by Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i)].
- b) This Subpart B shall apply to any contested case before the State Board of Education or State Superintendent of Education that is not conducted pursuant to Subpart A of this Part, except as provided in subsection (c) of this Section.
- c) When statutes or other rules applicable to the ISBE contain practices different from those set forth in this Subpart B, then those separate statutes and rules shall apply insofar as they differ from this Subpart B.
- d) In implementing the requirements of Subpart A referenced under this Subpart B, references to the “State Educator Preparation and Licensure Board” shall be understood to mean the “State Superintendent of Education”. References to “licensee” shall be understood to mean the “party to the action”.

Section 475.220 Filing and Form of Documents

All of the requirements set forth in Section 475.20 of this Part shall apply.

Section 475.230 Requirements for Service of Documents

All of the requirements set forth in Section 475.30 of this Part shall apply.

Section 475.240 Notice of Opportunity for Hearing

- a) All hearings conducted under the jurisdiction of the ISBE or the State Superintendent shall be initiated by issuance by the State Superintendent of Education of a written Notice of Opportunity for Hearing, which shall be served upon all known parties to the hearing.
- b) The Notice of Opportunity for Hearing shall include:
 - 1) The legal authority and jurisdiction under which the hearing is to be held;
 - 2) A reference to the particular Section of the statutes and rules involved;
 - 3) A short and plain statement of the matters asserted, except when a more detailed statement is otherwise provided by law;
 - 4) The address to which the recipient of the Notice shall send the request for hearing in accordance with Section 475.40(e) of this Part; and
 - 5) A statement that failure to request a hearing within 10 days after receipt of the Notice of Opportunity for Hearing shall result in the recommended action immediately taking effect as provided in the Notice.
- c) Any recipient of a Notice of Opportunity for Hearing must file a written request for hearing within 10 days after receipt, which shall be addressed to the State Superintendent of Education, 100 North First Street, Springfield, Illinois 62777, unless another address or an alternative means of filing (such as electronic transmission or submission of facsimile copies) is designated in the Notice.

Section 475.250 Hearing Officer: Qualifications, Powers and Duties, and Appointment

All of the requirements set forth in Section 475.50 of this Part shall apply.

Section 475.260 Appearance of Parties

Any person entitled to participation in proceedings may appear as follows.

- a) A natural person may appear on his/her own behalf or by a representative designated in writing.
- b) An association or other business, nonprofit or government organization may appear by any bona fide officer, employee or representative designated in writing.
- c) A designated representative appearing on behalf of a party shall file a written notice of appearance with the hearing officer designated by the State Superintendent.

Section 475.270 Pre-Hearing Conferences

All of the requirements set forth in Section 475.70 of this Part shall apply.

Section 475.280 Motions

In addition to the requirements set forth in Section 475.80 of this Part, the following shall apply.

- a) In the interest of convenient, expeditious and complete determination of matters, the hearing officer may consolidate or sever hearing proceedings involving any number of parties and may order additional parties to be joined.
- b) Upon timely written application, the hearing officer may permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when any of the following conditions is met:
 - 1) The party is so situated as to be adversely affected by a final order arising from the hearing;
 - 2) The party has an unconditional statutory right to intervene in the proceedings; or
 - 3) The party's circumstances and the hearing proceeding have a question of law or fact in common.
- c) Two copies of a petition for intervention shall be filed with the General Counsel of ISBE at the address set forth in Section 475.20(a) of this Part, one copy shall be filed with the hearing officer, and one copy shall be served on each party no later than 48 hours prior to the date set for hearing of matters set forth in the Notice of Hearing. The hearing officer may permit later intervention when there is a good cause shown for the delay.
- d) An intervenor shall have all the rights of an original party, except that the hearing officer may, in the order allowing the intervention, provide that the party shall not raise issues that might more properly have been raised at an earlier stage of the proceeding; that the party shall not raise new issues or add new parties; or that, in other respects, the party shall not interfere with the conduct of the hearing, as justice and the avoidance of undue delay might require.

Section 475.290 Depositions and Discovery

All of the requirements set forth in Section 475.90 of this Part shall apply, provided, however, that discovery depositions are prohibited.

Section 475.300 Notice of Hearing

The requirements set forth in Section 475.100 of this Part apply, provided, however, that the location of the hearing shall be either the State Board of Education's Springfield or Chicago office, chosen at the sole discretion of the State Board of Education, but taking into account the convenience of the other party or parties to the action.

Section 475.310 Hearings

All of the requirements set forth in Section 475.110 of this Part shall apply, provided, however, that each party has only one hour to present its case unless the hearing officer determines that more time is needed for any party to present adequate evidence and testimony.

Section 475.320 Orders

All of the requirements set forth in Section 475.120 of this Part shall apply.