**Section 1400.80 Appeals; Hearings**

a) An individual whose application or request is denied by the Candidacy Committee may, within 15 days after the date of the notice of a denial or acceptance with modifications of his or her application, appeal to the Board by filing a petition for hearing.

1) The petition for hearing shall be sent to the Board by U.S. Mail, postmarked no later than 15 days after the date of the notice of denial or acceptance with modifications.

2) The petition for hearing need not be in any particular form, but shall include the name of the petitioner, the nature of the application or request that was denied, and the specific grounds on which the individual seeks to have the determination of the Candidacy Committee overturned.

b) A candidate charged with misconduct pursuant to Section 1400.105, or any person charged with violation of the confidentiality provisions of Section 1400.110, may, within 30 days following the date notified of the charge, file a petition for hearing before the Board to contest the charge and/or to present evidence and argument requesting leniency in imposition of penalties.

c) All petitions for hearing, if filed in accordance with subsection (a) or (b), shall be heard by the Board, except that the members of the Candidacy Committee, any member of the Board who has brought the charge that is the subject of a hearing under subsection (b), and any member of the Board who is a substantive witness at the hearing shall be excluded from voting. If a petition for hearing fails to comply with subsection (a) or (b), as applicable, the Board shall deny the petition and notify the petitioner of the denial and the grounds for the denial within 15 days. Individuals whose petitions have been denied for failure to comply with subsection (a) or (b), as applicable, may appeal that denial by filing a written petition in compliance with subsection (a), in which case the Board shall review and make a determination of the adequacy of the original petition based solely on written evidence submitted.

d) All hearings shall be considered "de novo", and neither the Board nor the parties shall be limited to presenting or considering evidence that was previously presented. In hearings under subsection (a), the burden of proving facts that entitle the petitioner to the relief requested, and of establishing an adequate legal basis for the relief requested, shall be on the petitioner. The burden of proof must be sustained by a preponderance of the evidence. At a hearing to contest the validity of charges under subsection (b), the burden of proving the charge shall be on the accuser, who shall be required to prove the charges by a preponderance of the evidence.

e) Notice of Hearing. Upon receipt of a timely and sufficient petition, the Board shall notify the petitioner of the time, date and place of hearing, and reference to the substantive and procedural rules that will govern the hearing. The notice shall be sent by certified mail, return receipt requested, to the petitioner at the address shown on the petition not less than 15 days prior to the date of the hearing.

f) Continuances

1) Within seven days after the receipt of the notice of hearing, a petitioner may request a continuance of the hearing. The request must reach the Board Office not later than five days prior to the scheduled hearing date. The hearing officer shall reject a request for continuance unless the petitioner shows good cause why he or she cannot attend and present his or her case at the time, date and place indicated in the notice of hearing.

2) The hearing officer may order a continuance of any hearing at any time, whether or not any evidence has yet been presented, as may be necessary to further the interests of justice and fairness.

g) In the event a petitioner fails to appear, the Board may affirm the decision that is the subject of the appeal without further proceedings.

h) All hearings shall be presided over by a hearing officer who shall be the Board Chair, or in his or her absence, or if the Board Chair is the person bringing a charge that is the subject of a hearing under subsection (b), or at the discretion of the Board Chair, a Board member who is an attorney licensed to practice in this State or any other attorney licensed to practice in this State as may be appointed by the Board Chair. A hearing officer shall be disqualified on his or her own motion or upon motion by either party, upon a showing of bias or conflict of interest. Bias or conflict of interest shall include, but not be limited to, the existence of a close family, business or financial relationship or interest between the hearing officer and the petitioner, any Board member or employee of the Board, or any witness. The hearing officer shall have the duty to insure a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear and complete record. The hearing officer shall have all powers necessary to these ends, including but not limited to:

1) ruling upon offers of proof and receive evidence and rule upon objections to the introduction of evidence;

2) regulating the course of the hearings and conduct of the parties and their counsel; and

3) interrogating witnesses.

i) Petitioner may represent himself or herself at the hearing, or may be represented by an attorney licensed to practice in the State. The Petitioner shall notify the Board, not less than five business days prior to the hearing, of the names and roles of all persons appearing before the Board on behalf of the Petitioner. The decision of the Candidacy Committee, in an appeal brought under subsection (a), shall be presented by the Executive Director, a member of the Candidacy Committee who took part in decisions with regard to the particular applicant who is the petitioner in the appeal, or by an attorney licensed to practice in this State. A charge heard under subsection (b) shall be presented by the Executive Director or his or her designee, or by a Board member who has made the charge, or by an attorney licensed to practice in this State.

j) The sequence to be followed in hearings is as follows:

1) The party bearing the burden of proof shall make a brief opening statement of his/her case, indicating the issues intended to be addressed, the facts sought to be established, and the action being requested of the Board. The opposing party may make an opening statement, indicating the basis of its decision and the issues upon which its decision was based.

2) The party bearing the burden of proof may present evidence and witnesses, after which the opposing party may present evidence and witnesses. Following each witness, the other party may cross-examine the witness, and thereafter members of the Board and/or the hearing officer may question the witness.

k) In hearings under subsection (a), all documents that were a part of the record available to the Candidacy Committee shall be admitted into evidence and copies shall be made available to the petitioner at the hearing or, upon request, prior thereto. In addition, in all hearings the hearing officer shall admit evidence that is admissible under the rules of evidence pertaining to civil actions in Illinois, and shall admit material, relevant evidence that would be relied upon by reasonably prudent persons in the conduct of serious affairs that is reasonably reliable and reasonably necessary to resolve the issue before the Board. The hearing officer shall exclude from consideration immaterial, irrelevant, and repetitious evidence.

l) At the conclusion of the hearing, including any continuance of the hearing, the Board shall deliberate in a closed meeting and, within 15 days after the hearing, notify the petitioner and the petitioner's attorney, if any, by certified mail of its decision. In a hearing under subsection (a), the determination of the Candidacy Committee shall be upheld unless the Board overrules it by a vote of a majority of Board members present, not including Board members excluded because of participation on the Candidacy Committee. In a hearing under subsection (b), a vote of a majority of the Board present and voting shall be necessary to sustain a charge and/or to impose penalties. The determination of the Board shall be final.

(Source: Amended at 47 Ill. Reg. 6441, effective April 27, 2023)