**Section 2123.130 Discovery**

a) Discovery shall not be the subject of motions presented to the Board or hearing officer, except when a motion is made alleging failure to comply with this Section, and requesting relief in the form of dismissal of the case or recommendation to the Board based on the pleadings without a hearing.

b) Upon written request served on the opposing party, any party shall be entitled to:

1) The name and address of any witness who may be called to testify;

2) Copies of any document which may be offered as evidence; and

3) A description of any other evidence which may be offered.

c) The above information will be provided within ten days after service of a request.

d) Whether or not a request is made, during discovery a registrant shall be entitled to:

1) Any exculpatory evidence in the Office's possession. Exculpatory evidence is any evidence which tends to support the registrant's position or to call into question the credibility of an Office witness; and

2) Copies of any investigative report which purports to be a memorandum of interview of the registrant.

e) The registrant shall be entitled to the above whether or not the investigator is called to testify and whether or not the investigator uses reports to refresh recollection prior to or during testimony.

f) Upon a written request served on the registrant, at any time after a Complaint is filed, or at any stage of the hearing, the registrant will be required to produce documents, books, records or other evidence which relates directly to conduct alleged in the Complaint.

g) The investigative file of the Office is not subject to discovery except as stated in subsection (d) above relating to exculpatory evidence and memoranda of interviews of a registrant. However, after the direct examination of an Office witness, but prior to the cross-examination of that witness, the registrant shall be entitled to all investigative reports relating to that witness. Investigative reports relating to the witness shall be those which purport to be memoranda of interviews of the witness or which contain information about the witness.

h) Nothing in this Section shall prevent the parties in a contested case from agreeing to a mutual exchange of information which is more extensive than what is provided for herein. Where the parties agree to the use of an evidence deposition, such agreement will be in writing, and will operate as a waiver of any objection not made during the deposition, except for an objection that the testimony of the witness is not relevant to the case.

i) This provision will be construed to impose a continuing obligation upon the parties to exchange new information as it becomes available.