

09 NCAC 06B .1120 EVIDENCE

- (a) The North Carolina Rules of Evidence as found in G.S. Chapter 8C govern in all contested case proceedings, except as provided otherwise in this Section and G.S. 150B-41.
- (b) The hearing officer shall admit all evidence that has probative value. Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. The hearing officer may, in his discretion, exclude any evidence if its probative value is substantially outweighed by the risk that its admission will require undue consumption of time or create substantial danger of undue prejudice or confusion.
- (c) Contemporaneous objections by a party or a party's attorney are not required in the course of a hearing to preserve the right to object to the consideration of evidence by the hearing officer in reaching a decision or by the court upon judicial review.
- (d) All evidence to be considered in the case, including all records and documents or true and accurate photocopies thereof, shall be offered and made a part of the record in the case. Except as provided in Paragraph (f) of this Rule, factual information or evidence that is not offered shall not be considered in the determination of the case. Documentary evidence incorporated by reference may be admitted only if the materials so incorporated are available for examination by the parties.
- (e) Documentary evidence in the form of copies or excerpts may be received in the discretion of the hearing officer or upon agreement of the parties. Copies of a document shall be received to the same extent as the original document unless a question is raised about the accuracy or authenticity of the copy or, under the circumstances, it would be unfair to admit the copy instead of the original.
- (f) The hearing officer shall take official notice of standards and policies that have been established by ITS pursuant to Article 3D of Chapter 147 of the General Statutes. The hearing officer may take official notice of additional facts or documents as requested by a party or within the specialized knowledge of the hearing officer by entering a statement of the noticed fact or document and its source into the record.
- (g) When the State CIO takes official notice of evidence not in the record when making a final decision, the parties shall be afforded notice and a hearing to present arguments against the consideration of such evidence before a final decision is made.

*History Note: Authority G.S. 150B-38(h);
Temporary Adoption Eff. January 1, 2000;
Eff. August 1, 2000;
Recodified from 09 NCAC 06B .1028 Eff. March 19, 2008;
Amended Eff. September 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*