

11 NCAC 01 .0429 EVIDENCE

- (a) The North Carolina Rules of Evidence as found in Chapter 8C of the General Statutes govern in all contested case proceedings, except as provided otherwise in this Section and G.S. 150B-41.
- (b) The hearing officer may admit all evidence that has probative value. Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. In accordance with Rule 403 of the N.C. Rules of Evidence, the hearing officer may, in his discretion, exclude any evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.
- (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 genuine 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 may take notice of judicially cognizable facts by entering a statement of the noticed fact and its source into the record. Upon a timely request, any party shall be given the opportunity to contest the facts so noticed through submission of evidence and argument.
- (g) A party may call an adverse party, or an officer, director, managing agent, or employee of the State or any local government, of a public or private corporation, or of a partnership or association or body politic that is an adverse party; and may interrogate that party by leading questions and may contradict and impeach that party on material matters in all respects as if that party had been called by the adverse party. The adverse party may be examined by that party's counsel upon the subject matter of that party's examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by the testimony.

History Note: Authority G.S. 58-2-40(1); 58-2-50; 58-2-55; 58-2-70; 150B-38(h);
Eff. July 1, 1992;
Amended Eff. May 1, 2008; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27,
2019.