

201—12.16(17A) Rules of evidence—documentary evidence—official notice.

12.16(1) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. The administrative law judge will base the findings upon substantial evidence.

12.16(2) Objections to evidentiary offers may be made and shall be noted in the record. Motions and offers to amend the pleadings may also be made at the hearing and shall be noted in the record together with the rulings thereon.

12.16(3) Subject to above requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be submitted in writing in certified form, e.g., affidavit, sworn statements or certified documents.

12.16(4) Documentary evidence may be received in the form of copies if the original is not readily available. Documentary evidence may be received in the form of excerpts if the entire document is not relevant. Accurate copies of any document should be provided at the time of the hearing. Upon request, the parties shall be given the opportunity to compare the copy with the original, if available.

12.16(5) Witnesses at the hearing, or persons whose testimony has been submitted in written form, if available, shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

12.16(6) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the department. Parties shall be notified at the earliest practical time, either before or during the hearing or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data, and the parties shall be afforded an opportunity to contest such facts before the decision is announced unless the administrative law judge determines as part of the record or decision that fairness of the parties does not require an opportunity to contest such facts.