

281—41.1010(17A,256B) Rules of evidence.

41.1010(1) *Receiving relevant evidence.* Because the administrative law judge must decide each case fairly, based on the information presented, it is necessary to allow for the reception of all relevant evidence that will contribute to an informed result. The ultimate test of admissibility is whether the offered evidence is reliable, probative and relevant.

41.1010(2) *Acceptable evidence.* Irrelevant, immaterial or unduly repetitious evidence will be excluded. The kind of evidence reasonably prudent persons rely on may be accepted even if it would be inadmissible in a jury trial. The administrative law judge will give effect to the rules of privilege recognized by law. Objections to evidence may be made and shall be noted in the record. When a hearing is expedited and the interests of the parties are not prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

41.1010(3) *Documentary evidence.* Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties will be given an opportunity to compare the copy with the original, if available. Any party has the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

41.1010(4) *Administrative notice and opportunity to contest.* The administrative law judge may take official notice of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the administrative law judge. Parties will be notified at the earliest practicable time, either before or during the hearing or by reference in preliminary reports, and 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 to the parties does not require an opportunity to contest such facts.

41.1010(5) *Discovery.* Discovery procedures applicable to civil actions are available to all parties in due process hearings under this chapter. Evidence obtained in discovery may be used in the hearing before the agency if that evidence would otherwise be admissible in the agency hearing. The administrative law judge may exercise such control over discovery, including its nature, scope, frequency, duration, or sequence, as permitted by the Iowa rules of civil procedure, and for such grounds as those rules may provide.

41.1010(6) *Administrative law judge may evaluate evidence.* The administrative law judge's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

41.1010(7) *Decision.* A decision will be made upon consideration of the whole record or such portions that are supported by and in accordance with reliable, probative and substantial evidence.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]