WAC 162-08-292 Evidence. (1) **General rules on admissibility.** Administrative law judges shall admit and give probative effect to evidence that is admissible in the superior courts of the state of Washington in a nonjury trial. In addition, an administrative law judge may admit and give probative effect to other evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Administrative law judges shall give effect to the rules of privilege recognized in the courts of this state. Administrative law judges may exclude irrelevant, immaterial, and unduly repetitious evidence.

(2) **Identification of exhibits.** All exhibits requested by any party shall be identified by a single series of numbers, in the order that the proposed exhibits are marked for identification. The numbers may be preceded by code letters indicating the acting party, including "C" for the commission, and "R" for a respondent. *Example*: The first exhibit, marked at the request of the commission, is C1. The second exhibit, if offered by a respondent, is R2, whether or not C1 was admitted.

(3) **Stipulations encouraged.** Counsel are requested to mark proposed exhibits in advance of hearing and to stipulate to the admission of all exhibits that will not be objected to.

(4) **Copies of documents and exhibits.** Unless excused from doing so by the administrative law judge, a party offering a document or other exhibit in evidence must furnish copies to all other parties.

(5) **Official notice.** The administrative law judge may take notice of judicially cognizable facts, and in addition may take notice of general, technical, or scientific facts within his or her specialized knowledge. Any party may, by motion, ask the administrative law judge to take official notice of facts or material. When the administrative law judge takes official notice of any facts or material, the administrative law judge must notify the parties of what is noticed and afford them reasonable opportunity to contest the noticed facts. This may be done at any time before the administrative law judge's order becomes final.

(6) **Evaluation of evidence.** The administrative law judge's findings of fact shall be based exclusively on the evidence presented at the administrative hearing and on matters officially noticed, but the administrative law judge may utilize his or her experience, technical competence, and specialized knowledge in evaluating the evidence.

(7) **Efforts at conciliation excluded.** Any endeavors or negotiations for conciliation made under RCW 49.60.240 shall not be received in evidence as proof of whether or not an unfair practice was committed. RCW 49.60.250(2). If a respondent denies that the statutory step of endeavoring to eliminate the unfair practice by conference, conciliation, and persuasion took place, then evidence of whether such endeavors were made may be admitted, but the contents and details of offers, counteroffers, and discussions shall be excluded to the maximum extent possible. The commission's findings made pursuant to RCW 49.60.240 are prima facie evidence that the investigation, conciliation, and other statutory steps have been taken. In addition, offers of settlement or compromise and statements made in settlement or compromise negotiations, at any stage of the case, are privileged from use as proof of whether or not an unfair practice was committed. Evidence of such an offer or statement shall be excluded upon claim of the privilege by the party that made the offer or statement.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-020, § 162-08-292, filed 11/7/89, effective 12/8/89; Order 35, § 162-08-292, filed 9/2/77.]