

**WAC 182-526-0390 Evidence.** (1) Evidence includes documents, objects, and testimony of witnesses that parties offer during the hearing to help prove their positions.

(2) Evidence may be all or parts of original documents and may be copies of the originals.

(3) Parties may offer statements signed by a witness under oath or affirmation as evidence, if the witness cannot appear.

(4) Testimony subject to cross examination by the other parties may be given more importance by the administrative law judge (ALJ).

(5) The parties may bring evidence to any prehearing meeting, prehearing conference, or hearing, or may file evidence before these events with the office of administrative hearings (OAH).

(6) The ALJ may set a deadline before the hearing for the parties to file proposed exhibits and the names of witnesses. If a party misses the deadline, the ALJ may refuse to admit the evidence unless:

(a) The ALJ finds that the offering party has good cause.

(b) The other parties agree that party has good cause for missing the deadline; or

(c) The other parties agree the ALJ may consider the evidence.

(7) Parties may bring any documents and witnesses to the hearing to support their position. However, the other parties may object to any evidence that is offered and may cross-examine witnesses.

(8) The ALJ determines whether the evidence is admitted and what importance to give it.

(a) If the ALJ does not admit the evidence, the parties may make an offer of proof to show why the ALJ should admit it.

(b) To make an offer of proof, a party presents evidence and argument on the record to show why the ALJ should consider the evidence.

(c) The offer of proof preserves the argument for appeal.

(9) The ALJ may only consider admitted evidence and matters officially noticed in the proceeding (judicial notice) to decide the case.

(10) Admission of evidence is based upon the reasonable person standard. This standard means evidence that a reasonable person would rely on in making a decision.

(11) The ALJ may admit and consider hearsay evidence in accordance with RCW 34.05.452.

(12) The ALJ may reject evidence using the Washington rules of evidence as guidelines.

(13) The ALJ must reject evidence if required by law.

(14) The ALJ decides:

(a) What evidence is more credible if evidence conflicts; and

(b) The importance given to the evidence.

(15) The ALJ uses the Washington rules of evidence as guidelines when those rules do not conflict with the rules of this chapter or the Washington Administrative Procedure Act, chapter 34.05 RCW.

(16) The ALJ may permit a party or parties to submit additional evidence after the date of the hearing. The ALJ also may allow an appropriate amount of time for the other parties to respond and object to any evidence submitted after the hearing.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0390, filed 2/13/17, effective 3/16/17. Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0390, filed 12/19/12, effective 2/1/13.]