

WAC 381-70-400 Rules of evidence—Admissibility. All relevant evidence shall be admissible which, in the opinion of the presiding officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability, and trustworthiness.

"Relevant evidence" means evidence having a tendency to make the determination of the action more or less probable than it would be without the evidence. In passing upon admissibility of evidence, the presiding officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior courts in the state of Washington. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The presiding officer may, in his or her discretion, either with or without objection, exclude inadmissible evidence, or order accumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered. If the sole evidence to support the allegation is hearsay that would be inadmissible in a superior court proceeding and is not substantiated or corroborated, the board shall not enter a finding of guilt. If the sole evidence presented to substantiate the allegation is the result of a polygraph examination, a finding of guilty shall not be made.

The results of polygraph examinations shall not be admissible in-to evidence at parole revocation hearings unless the following circumstances are present:

(1) The parties have stipulated that the polygraph examination be conducted and the results be admissible in a parole revocation hearing. Such stipulation may be evidenced by showing that the parolee has submitted to a condition of parole that he or she submit himself or herself to polygraph examination at the request of the community corrections officer and that the results of said examination(s) shall be admissible at a subsequent parole revocation hearing. Other stipulations shall be in writing, signed by the community corrections officer or his agent and by the parolee; and

(2) The board panel or member specifically finds that the polygraph examiner is qualified and the proper conditions existed during administration of the test; and

(3) The parties have been afforded an opportunity to confrontation of the examiner, unless good cause for nonconfrontation is specifically found or confrontation is waived.

The board will require polygraph examinations in appropriate cases. Polygraphs will be provided to indigent parolees at state expense, through the department of corrections. Parolees who are not indigent will be required to obtain a polygraph at his/her own expense.

[WSR 95-06-008, § 381-70-400, filed 2/16/95, effective 2/13/95. WSR 91-14-029, § 381-70-400, filed 6/26/91, effective 7/27/91.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.