**Section 2605.340 Evidence**

a) Except as otherwise provided in this Section, *the rules of evidence and privilege applicable to all contested cases will be the rules of evidence* that *are applied in civil cases in the circuit courts of the State* of Illinois. In addition, the Hearing Officer may receive material, *relevant evidence that would be relied upon by a reasonably prudent person in the conduct of serious affairs* [5 ILCS 100/10-40] that is reasonably reliable and reasonably necessary to a resolution of the issue for which it is offered.

b) The Hearing Officer shall exclude immaterial, irrelevant, and repetitious evidence.

c) The Hearing Officer shall use his or her discretion in admitting or denying the admission of evidence.

d) Hearsay is not admissible except when:

1) exceptions to the hearsay rule that exist in Illinois are applicable or a statement has circumstantial guarantees of trustworthiness; and

2) if the probative value of the statement outweighs any prejudice resulting from an inability to cross-examine the declarant.

e) Statements that are Not Hearsay:

1) Prior Statement by Witness. The declarant testifies at the Hearing and is subject to cross-examination concerning the statement, and the statement is:

A) Inconsistent with his or her testimony that was given under oath subject to the penalty of perjury at a trial, Hearing, deposition, or other proceeding; or

B) Consistent with his or her testimony and is offered to rebut an express or implied charge against him or her of recent fabrication or improper influence or motive; or

C) One of identification of a person made after perceiving him or her.

2) Admission by Opposing Party. The statement is offered against a party and is:

A) The party's own statement in either his or her individual or a representative capacity;

B) A statement of which the party has manifested his or her adoption or belief in its truth;

C) A statement by a person authorized by the party to make a statement concerning the subject;

D) A statement by the party's agent or servant concerning a matter within the scope of the party's agency or employment, made during the existence of the relationship; or

E) A statement by a coconspirator of a party during the course and in furtherance of the conspiracy.

f) Official notice may be taken of all facts of which judicial notice may be taken and of other facts, of a technical nature, within the specialized knowledge and experience of the Department.

g) A party may object to evidentiary offers. Objections shall be noted in the record.

h) The parties may, by stipulation, agree upon any facts involved in the proceeding. The facts stipulated must be considered evidence in the proceeding.

i) The Hearing Officer may direct the parties to protect the disclosure of trade secret or other confidential information protected by Statute prior to its admission. The Hearing Officer may require the information to be revealed or redacted in a specific way.

(Source: Amended at 43 Ill. Reg. 4056, effective March 19, 2019)