

10A NCAC 05E .0109 EVIDENCE

(a) Whenever material matters of fact are in dispute as stated in the petition, factual evidence and expert opinion testimony related to the issues may be presented at the hearing. Petitions which do not contain disputed material facts or whose disputed material facts have all been resolved by stipulation, etc. may be reviewed and written decision issued by the Hearing Officer without necessity of a hearing. In such case, a party or the party's representative may make a written motion for summary decision which shall include written arguments as to the applicable laws, rules, policies and procedures. The Hearing Officer may also require submission of such written arguments any time he determines that no material facts are in dispute, and may then render his decision accordingly.

(b) Parties shall be entitled to present evidence, examine and cross-examine witnesses at the hearing. A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination. Irrelevant, immaterial, unreliable and unduly repetitious evidence shall, upon objection by a party or designated party representative, be excluded at the discretion of the Hearing Officer. Hearsay, whether written or spoken, is likewise excludable except for recognized legal exceptions. Objections to evidence shall be timely and briefly state the grounds relied upon.

(c) When evidence is alleged to be of a confidential nature, the Hearing Officer may examine such evidence in camera, at his discretion, if necessary to preserve its confidentiality.

History Note: Authority G.S. 143B-10; 143B-138; 143B-181.1; 42 U.S.C., Sec. 3027(a)(5);
45 C.F.R., Part 1321; 45 C.F.R., Part 74, Appendix G;
Eff. October 1, 1988;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.