

**76-11a10. Same; powers of hearing officer; rules of evidence not binding; burden of proof; admissibility of evidence.** (a) The hearing officer may:

- (1) Administer oaths;
- (2) issue subpoenas for the attendance and testimony of witnesses and the production of books, papers and documents relating to any matter under investigation;
- (3) authorize depositions to be taken;
- (4) receive evidence and limit lines of questioning and testimony which are repetitive, cumulative or irrelevant;
- (5) call and examine witnesses and introduce into the record documentary and other evidence;
- (6) regulate the course of the hearing and dispose of procedural requests, motions and similar matters; and
- (7) take any other action necessary to make the hearing accord with administrative due process.

(b) Hearings under this act shall not be bound by rules of evidence whether statutory, common law or adopted by the rules of court; however, the burden of proof shall initially rest upon the state board in all instances other than when the allegation is that the teacher's contract has been terminated or nonrenewed by reason of the teacher having exercised a constitutional right. All relevant evidence shall be admissible, except that the hearing officer, at the hearing officer's discretion, may exclude any evidence if the hearing officer believes that the probative value of such evidence is substantially outweighed by the fact that its admission will necessitate undue consumption of time.

**History:** L. 1987, ch. 360, § 9; L. 2003, ch. 52, § 8; July 1.