

120207 Evidence

(a)

The Administrative Law Judge shall identify the issue(s) and shall state the order in which evidence shall be received. The taking of evidence in a hearing shall be conducted by the Administrative Law Judge in a manner best suited to ascertain the facts and to control the conduct of the hearing.

(b)

Except as specified in (1) through (3) below, evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. (1) The rules of evidence as applicable in judicial proceedings shall not be applicable in state hearings. (2) The Administrative Law Judge shall be permitted to exclude evidence that is irrelevant, cumulative or unduly repetitious. (3) The Administrative Law Judge shall exclude evidence that is privileged under the Evidence Code if the privilege is claimed in accordance with law.

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The Administrative Law Judge shall exclude evidence that is privileged under the Evidence Code if the privilege is claimed in accordance with law.

(c)

The Administrative Law Judge shall consider the nature of the evidence admissible pursuant to subsection (b) in assessing its probative value.

(d)

The Administrative Law Judge shall recognize the existence and truth of certain facts, such as a proposition of law or fact, that have a bearing on the issue in the case through official notice, without requiring the actual production of evidence to prove such facts. (1) The Administrative Law Judge shall take official notice of those matters that must be judicially noticed by a court under Section 451 of the Evidence Code. (2) The Administrative Law Judge may take official notice of those matters set forth in Section 452 of the Evidence Code. (3) The Administrative Law Judge may take official notice of any generally accepted fact relating to the enforcement of child support. (4) With respect to matters under subparagraph (3) above, and subdivision (f) of Section 451 and subdivision (g) of Section 452 of the Evidence Code that are of substantial consequence to the determination of the action, each party shall be given reasonable opportunity, subject to Section 120210(c) before the decision is submitted, to present information relevant to: (A) The propriety of taking official notice; and (B) The tenor of the matter to be noticed.

(1)

The Administrative Law Judge shall take official notice of those matters that must be judicially noticed by a court under Section 451 of the Evidence Code.

(2)

The Administrative Law Judge may take official notice of those matters set forth in Section 452 of the Evidence Code.

(3)

The Administrative Law Judge may take official notice of any generally accepted fact relating to the enforcement of child support.

(4)

With respect to matters under subparagraph (3) above, and subdivision (f) of Section 451 and subdivision (g) of Section 452 of the Evidence Code that are of substantial consequence to the determination of the action, each party shall be given reasonable opportunity, subject to Section 120210(c) before the decision is submitted, to present information relevant to: (A) The propriety of taking official notice; and (B) The tenor of the matter to be noticed.

(A)

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(B)

The tenor of the matter to be noticed.

(e)

The standard of proof to be used by the Administrative Law Judge in reaching their decision in the matter shall be by a preponderance of the evidence.

(f)

In determining whether a local child support agency acted properly, where the action or inaction that is the subject of the complaint is discretionary, the standard of review shall be whether the local child support agency's exercise of discretion was arbitrary and capricious.