

## § 959.17

- (1) Administer oaths and affirmations;
- (2) Examine witnesses;
- (3) Rule upon offers of proof, admissibility of evidence and matters of procedure;
- (4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;
- (5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;
- (6) Require the filing of briefs or memoranda of law on any matter upon which he or she is required to rule;
- (7) Order prehearing conferences for the purpose of settlement or simplification of issues by the parties;
- (8) Order the proceeding reopened at any time prior to his or her decision for the receipt of additional evidence; and,
- (9) Render an initial decision if the presiding officer is an Administrative Law Judge, which becomes the final decision of the Postal Service unless a timely appeal is taken; the Judicial Officer may issue a tentative or a final decision.

[39 FR 33213, Sept. 16, 1974, as amended at 63 FR 66052, Dec. 1, 1998]

### § 959.17 Evidence.

- (a) Except as otherwise provided in these rules, the rules of evidence governing civil proceedings in matters not involving trial by jury in the District courts of the United States shall govern. However, such rules may be relaxed to the extent that the presiding officer deems proper to insure a fair hearing. The presiding officer shall exclude irrelevant, immaterial or repetitious evidence.
- (b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.
- (c) Agreed statements of fact may be received into evidence.
- (d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.
- (e) The written statement of a competent witness may be received into evidence provided that such statement is relevant to the issues, that the witness shall testify under oath at the hearing that the statement is in all re-

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spects true, and, in the case of expert witnesses, that the statement correctly states his or her opinion or knowledge concerning the matters in question.

(f) A party who objects to the admission of evidence shall make a brief statement of the grounds for the objection. Formal exceptions to the rulings of the presiding officer are unnecessary.

[39 FR 33213, Sept. 16, 1974, as amended at 63 FR 66052, Dec. 1, 1998]

### § 959.18 Subpoenas.

The Postal Service is not authorized by law to issue subpoenas requiring the attendance or testimony of witnesses or the production of documents. This does not affect the authority of the Chief Postal Inspector to issue subpoenas for the production of documents or information pursuant to § 233.1(c) of this chapter.

[39 FR 33213, Sept. 16, 1974, as amended at 56 FR 55825, Oct. 30, 1991]

### § 959.19 Witness fees.

The Postal Service does not pay fees and expenses for a respondent's witnesses or for depositions requested by a respondent.

### § 959.20 Depositions.

(a) Not later than 5 days after the filing of respondent's answer, any party may file an application with the Recorder for the taking of testimony by deposition. In support of such application, the applicant shall submit under oath or affirmation, a statement containing the reasons why such testimony should be taken by deposition, the time and place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(b) If the application be granted, the order shall specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken, and any other necessary information.

(c) Each deponent shall first be duly sworn, and the adverse party shall have