

**Polygraph Results in Administrative Proceedings Before the Office of
Administrative Hearings – A Consensus Response to Inquiry – REVISED**
12/30/2014

1. Is there a general policy or rule at the Office of Administrative Hearings (“OAH”)? Or is it at the discretion of the Administrative Law Judge (“ALJ”)?

A.R.S. § 41-1092.07(D) governs admission of evidence in administrative hearings at the OAH and provides as follows:

All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues or by considerations of undue delay, waste of time or needless presentation of cumulative evidence. The administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make the cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.

ALJs are cognizant that in Arizona courts the results of polygraph tests are not considered sufficiently reliable to be generally admissible absent a stipulation by both parties. However, no statutory bar exists to the admissibility of polygraph tests. Neither do the Arizona Rules of Civil Procedure¹ nor the Rules of Evidence² apply to OAH hearings, although ALJs may look to those rules, and by extension, applicable case law, for guidance.

2. Can either side present polygraph results?

Yes.

¹ See A.A.C. R2-19-102(C)

² See A.R.S. § 41-1092.07(F)(1)

3. Are there some instances when it is allowed?

Yes. Discretion of Administrative Law Judge.

4. Other instances when it is forbidden?

No.

5. Any additional thoughts on polygraph testing in administrative proceedings?

Parties are entitled to rely upon the stated substance and rationale of written decisions and public commentary expanding upon such decisions is inappropriate. Specific decisions involving the admission of polygraph testimony can researched at <http://www.azoah.com/search.html> .