

28 Evidentiary and procedural objections:

- 28.1 General:** In the hearing process, the Hearing Officer is required to make rulings on objections involving a wide range of evidentiary and procedural matters.
- 28.2 Stating basis for objection:** Statements of reasons in support of objections are specific and concise. The Hearing Officer does not infer or assume the ground upon which the party may be relying in raising the objection.
- 28.3 Arguing the objection:** The parties generally are permitted to argue briefly to support their objection. However, the Hearing Officer does not permit the parties to engage in extended debate. In most instances, the issue that the Hearing Officer eventually rules on is clear by the way the particular question is framed and the basis offered in support of the objection.
- 28.4 Stating the ruling:** In ruling on an objection, the Hearing Officer's statement is limited to, "Objection sustained" or "Objection overruled," depending on whether or not the objection has merit. The Hearing Officer does not explain or volunteer the basis of the ruling. It is the ruling itself which the Regional Director reviews in determining whether the ruling was proper. The right ruling, for the wrong reason, remains a right ruling. If a party requests the reason for the ruling, the Hearing Officer refuses to do so and points out that automatic exceptions are allowed to all adverse rulings.
- 28.5 Interjection by Hearing Officer:** The Hearing Officer has an obligation to control the admissibility of evidence and need not wait for the parties to object before ruling on the admissibility of certain testimony or other evidence. For example, in the course of an examination of a witness, a line of questioning may be undertaken which is totally irrelevant, or even prejudicial to one of the other parties (e.g., that the activity engaged in possible unfair labor practices). The Hearing Officer properly interjects at this point and requests that the party explain the purpose of the question. If not persuaded otherwise, the question is "disallowed" (see *HOG 2.1*).

The Hearing Officer is permitted to interject and ask a follow up question when appropriate during another party's questioning of a witness if the Hearing Officer's question is on point and does not interrupt the flow of the hearing. The Hearing Officer avoids the perception of controlling the hearing or interfering with the parties' right to present its best evidence as long as the evidence is relevant and material. See also *HOG 11.8* and *HOG 32.16*.

28.6 ***Objection to questioning by Hearing Officer:*** The Hearing Officer is subject to the same requirements regarding the proper framing of questions to witnesses as are the parties. Thus, if an objection is raised by a party to a question posed by the Hearing Officer to a witness, the objection is given full consideration. If the Hearing Officer concludes that the objection has merit, the question is withdrawn or rephrased. An objection based solely on the contention that the Hearing Officer should not be engaged in any kind of questioning of a witness is without merit and is overruled.

28.7 ***Decide all objections:*** All objections, whether made in good faith or seemingly frivolous, are handled on the record. If not withdrawn by the objecting party, the Hearing Officer rules the objection. Objections cannot be left dangling on the record.