

Relevance

If evidence is relevant, it is admissible unless there is some other consideration for excluding the evidence. For example, discussions between a lawyer and a client may be relevant to the matter at issue but are excluded from evidence due to the lawyer-client privilege. Evidence which is not relevant is not admissible.

Evidence is relevant if it tends to prove or disprove a material fact. A fact is material if it relates to matters properly at issue in the case. As defined in the Vermont Rules of Evidence, “relevant evidence” means “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence”.¹

The Board is more liberal in the admission of evidence than is the case in a jury trial. In a jury trial, relevant evidence may be excluded if its probative value is substantially outweighed by danger of unfair prejudice, confusion of the issues, or misleading the jury. Given that the Board is a quasi-judicial board with expertise in labor relations, there is much less risk of these dangers in Board hearings. The Board may admit evidence and indicate it will weigh the probative value of it. However, the Board may exclude otherwise relevant evidence based on judicial efficiency standards such as waste of time or needless presentation of repetitious or cumulative evidence.

¹ Vermont Rules of Evidence, Rule 401.