

MEMORANDUM OF UNDERSTANDING

This is a Memorandum of Understanding (MOU) by and between the Social Security Administration (SSA), Office of Hearings Operations (OHO), (hereinafter referred to as the "Agency," "OHO," or "Management"), and the Association of Administrative Law Judges, International Federation of Professional and Technical Engineers, AFL-CIO (hereinafter referred to as "AALJ" or "Union") and collectively referred to as the "Parties."

The purpose of this MOU is to address substantial changes in the bargaining unit judges' conditions of employment concerning Administrative Law Judges (ALJs) reentry to the workplace and Workplace Safety Plan 2.0 (WSP 2.0). Since March of 2020, ALJs have worked remotely under the Agency's Work at Home by Quarantine policy and have only conducted telephonic or online video hearings (OVH).

Section A. Reporting to the Worksite

1. During the reentry period associated with this MOU, ALJs will be required to report to their Permanent Duty Site ("worksite") only on days when the ALJ is scheduled to hold in-person hearings. In-person hearing days will not be mixed with hearings that can be conducted remotely without the prior approval of the ALJ.
2. ALJs may voluntarily report to the worksite to conduct other hearings, including Online Video Hearings (OVH) and telephonic hearings, at their own discretion. An ALJ will typically hold such hearings from the ALJ's office so long as the office is fully equipped for such hearings. If the ALJ's office is not suitable for holding remote hearings, or the ALJ wishes to use other space, the ALJ may coordinate with management on the use of an available hearing room or other suitable space for conducting a remote hearing. Unless a manager will be present and serving as Officer-In-Charge (OIC), the ALJ will serve as OIC and comply with OIC policy and procedures.
3. ALJs may voluntarily report to the worksite on non-hearing days at their own discretion, unless a local evacuation order necessitates remote work, enhanced restrictions are in place due to a confirmed COVID-19 infection in the hearing office, or the office is closed for other reasons. Unless a manager will be present and serving as OIC, the ALJ will serve as OIC and comply with OIC policy and procedures.
4. ALJs who report to the worksite to conduct hearings can, at their own discretion, work the entire day at the worksite or choose to complete the remainder of their workday at their Alternative Duty Station ("ADS"). Travel time between the worksite and ADS is non-duty time.
5. During the reentry period, an ALJ's ADS is not restricted by its distance from the worksite. The Agency is not responsible for any per diem or travel costs between an ALJ's ADS and the worksite. ALJs will hold in-person hearings at the ALJ's assigned

worksite as part of their normal hearing schedule.

6. ALJs will report to the worksite to resolve ID badge/credential or technology issues that cannot be resolved remotely. The ALJ and local management team will arrange a specific date and time for the ALJ to come to the worksite, including allowing the ALJ sufficient time to make travel arrangements if needed. To the extent practicable, any credential issues will be addressed on days when the ALJ is scheduled to be in the office to conduct hearings.
7. All ALJs will be allowed to telework under the terms of this MOU so long as the ALJ is not subject to a limiting condition under the Telework Enhancement Act of 2010, 5 U.S.C. § 6502(a)(2).
8. ALJs who use Agency equipment at the ALJ's ADS will be allowed to keep this Agency equipment at the ADS during the time period covered by this MOU.

Section B. Health and Safety for Hearings

1. OHO will make hand sanitizer and disposable masks available to all claimants prior to entering the local hearing office. With the exception of an adult accompanying a child to a hearing for the purpose of obtaining child disability benefits or individuals requiring special assistance or accommodations, no one other than a claimant scheduled for an in-person hearing and the claimant's representative will be allowed to enter the hearing room. Any claimant, contractor, or other visitor who enters the hearing office will be required to wear a mask as described by the CDC (currently available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>).
2. OHO will ensure that all contractors and visitors to a hearing office are properly screened as follows before entering the hearing office:
 - a. They have been advised of the need to self-screen that they have not experienced any possible COVID-19 symptoms;
 - b. They will be advised to self-screen for fever and other symptoms and about the safety protocols applicable to their vaccination status during the hearing scheduling process and upon arrival via signage.
3. Signage will be posted at the hearing office entrance, by the check-in windows, and in the waiting room reminding all visitors to a hearing office that they are required to wear a mask at all times. Office staff working the check-in windows will remind all visitors to the office that they must wear a mask at all times. Signage will be posted at the entrance to every hearing room about the need to properly wear a mask (i.e. over the mouth and nose).

4. Consistent with 20 CFR 404.936 and 20 CFR 416.1436, an ALJ may adjourn a hearing that is in progress and continue it at a later date. Nothing in this MOU will be construed to restrict an ALJ's right to postpone or adjourn a hearing. If a claimant in a hearing room continues to refuse to properly wear a mask while in a hearing room after reasonable warning from staff and/or the ALJ, the ALJ has the right to postpone the remainder of the hearing and direct the claimant to leave the hearing office immediately. If a contractor or other hearing participant such as a representative refuses to properly wear a required mask in a hearing room after reasonable warning, the ALJ may stop the hearing and reschedule it.
5. Any individual, regardless of vaccination status, who displays any symptoms consistent with COVID-19 while in a hearing room must promptly leave the hearing office. If the individual is a claimant or other essential party to the hearing, the ALJ shall adjourn and/or postpone the hearing.
6. Visitors and contractors will be advised to refrain from eating or drinking while in the hearing rooms, unless they have a medical need to do so.
7. In each hearing room where there is more than one person, protective barriers such as splash screens made of plexiglass will be installed at the ALJ bench and at each participant area.
8. While in the hearing room, all participants to a hearing will be placed at a distance from one another as recommended by the CDC, currently no less than six feet apart, or whatever distance the CDC recommends in the future. Appropriate distancing markings shall be placed by the Agency to clearly identify appropriate spacing.
9. CDC suggested cleaning supplies (e.g., hand sanitizer, disinfectant cloths, protective gloves, and individual tissue boxes) will be available in each hearing room.
10. Upon request, each ALJ will be given a protective plastic face shield that is intended for use by the ALJ during in-person hearings. Wearing the protective plastic face shield is at the election of the judge during the hearings and does not substitute for the requirement to wear a face mask when unvaccinated or when CDC guidance or local conditions require it.
11. The Agency will include a COVID-19 Procedures Notice when giving claimants notice of an in-person hearing. As soon as practicable, the COVID-19 Procedures Notice will be revised to be consistent with this MOU and the WSP 2.0. Prior to in-person hearings being scheduled for bargaining unit ALJs, the Agency will revise the webpage hyperlinked in the Notice to include the requirement that all hearing participants wear appropriate face coverings.
12. Prior to reentry to the workplace by any bargaining unit ALJ, a representative of the

AALJ will be given access to the hearing office so that the AALJ representative can conduct a walk-through of the hearing office to ensure compliance with this MOU and the WSP 2.0.

13. The Agency will continue to have security guards remind visitors of self-screening requirements and to wear face coverings prior to entering the office. If the visitors indicate they do not meet these criteria for entry, they will be instructed to leave and contact the Agency.

Section C. Reasonable Accommodations and COVID-19 Infections

1. The Agency recognizes that employees may need accommodation during and after the re-entry process. The Agency will expedite processing of reasonable accommodation (RA) requests related to re-entry and WSP 2.0 (including new telework schedules). The RA process will not be curtailed at any step (e.g., interactive process), nor will RA requests be denied, to meet arbitrary deadlines or reentry dates. Employees with pending RA requests related to re-entry and WSP 2.0 (including new telework schedules) will not be required to return to the official duty station until the request is resolved.
2. If an ALJ develops COVID-19 following exposure at the worksite, the ALJ's leave request will be approved consistent with Agency policy or the ALJ shall be allowed to work from the ALJ's ADS until it is safe for the ALJ to resume in-person hearings. Nothing in this MOU limits an ALJ's ability to submit a workers compensation claim under the Federal Employee's Compensation Act.
3. If an ALJ has a known exposure to COVID-19 outside of the worksite, or an ALJ is required to quarantine as a result of travel, the ALJ shall work from the ALJ's ADS for the quarantine time required by CDC guidelines and/or local and state health orders, whichever is longer. During this time period, all in-person hearings will be rescheduled or converted to a type of hearing that the ALJ can conduct from the ALJ's ADS.
4. If an ALJ is diagnosed with COVID-19, the ALJ shall work from the ALJ's ADS for up to the isolation time required by CDC guidelines and/or local and state health orders, whichever is longer. During this time period, all in-person hearings will be rescheduled or converted to a type of hearing that the ALJ can conduct from the ALJ's ADS.
5. If an ALJ has a dependent subject to COVID-19 restrictions, to include but not limited to a school closure or quarantine due to a known exposure, the ALJ will be permitted to telework until the dependent's restrictions are no longer required. During this time period, all in-person hearings will be rescheduled or converted to a type of hearing that the ALJ can conduct from the ALJ's ADS. The ALJ will also be offered maximum flexibility to complete

the ALJ's work duties while also caring for the ALJ's dependent, and the ALJ's leave request will be approved consistent with Agency policy to meet the ALJ's dependent care requirements.

6. On a biweekly basis, the Agency will provide the AALJ President or designee a report of the number of all known COVID-19 cases and exposures at all hearing offices that are open to the public, nationwide. This report will include the date of the case or exposure, the hearing office where it occurred, and the number of hearings impacted by the case or exposure. This report will not include any personally identifiable information (PII) such as the name of the employee, manager, or claimant. To ensure PII is not included, this report may be redacted when the Agency determines that information could lead to identification of or jeopardize the privacy of any individual.
7. The Agency will continue to work with public health departments concerning contact tracing and will work with management to issue notifications when appropriate and consistent with guidance from OSHA (currently found at <https://www.osha.gov/sites/default/files/publications/OSHA4131.pdf>). With any notification, the Agency will protect the confidentiality of personal medical information consistent with Federal, State, and local privacy and confidentiality laws and regulations. Any individual with a suspected or confirmed case of COVID-19 will be advised to isolate, pursuant to CDC guidelines. ALJs who have had a close contact with someone who has tested positive for COVID-19 will follow CDC and State, local, and Tribal guidance for quarantine.

Section D. Environmental Cleaning

1. Cleaning of high touch areas, including shared equipment, shall be consistent with CDC and GSA cleaning protocols and shall be the responsibility of the Agency.
2. Hand sanitizer, cleaning supplies, and protective gloves will be available at each common equipment site.
3. The Agency is responsible for the cleaning of the common areas, hearing rooms, and the high touch areas consistent with CDC and GSA guidance (currently available at <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>). In addition, cleaning supplies will be provided to users (including claimants) to wipe down high touch and common areas.
4. The Agency will follow the GSA and CDC guidance for spaces occupied by an individual with a suspected or known COVID-19 case within the hearing office (currently available at <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>).

Section E. Ventilation and Filtration

1. The Agency will request that GSA verify that building ventilation systems for hearing offices are cleaned and operating in compliance with the lease.
2. The Agency is responsible for ensuring ventilation systems operate properly and provide acceptable indoor air quality in accordance with the lease. The Agency shall provide all test results to the designated Union officials and conduct investigations and inspections when required consistent with Article 23, Section 6 of the parties' collective bargaining agreement.
3. Each hearing room and reception area used during the reentry period shall be equipped with a portable high-efficiency particulate air (HEPA) fan/filtration system.
4. Management will make arrangements for proper cleaning and maintenance of the HEPA systems in accordance with the manufacturer's recommendations and specifications. The Agency shall provide evidence of this cleaning and maintenance to AALJ representatives upon request.

Section F. Scheduling

1. For the first 30 days of the reentry period, initial scheduling of in-person hearings shall be done on a strictly voluntary basis. No bargaining unit ALJ shall be required to go into a hearing office for in-person hearings unless there is an insufficient number of ALJs who volunteer to hear the in-person cases. During these first 30 days, an ALJ who does not volunteer to hear in-person cases will agree to a reassignment of any cases in which a claimant is requesting an in-person hearing.
2. After this initial 30 days of the reentry period, all ALJs will cover in-person hearings consistent with the provisions of this MOU.
3. Consistent with 20 CFR 404.938 and 416.1438, all in-person hearings contemplated under this MOU will be scheduled with at least 75 days' notice to the claimant and the ALJ. No in-person hearing will be scheduled with less than 75 days' notice without prior approval of the ALJ assigned to the case.
4. No in-person hearing contemplated under this MOU will be backfilled into an ALJ's existing hearing calendar without the written approval of the ALJ. No previously scheduled telephonic or online video hearing will be changed to an in-person hearing without the written approval of the ALJ.

Section G. Duration

1. Consistent with OPM guidance, ALJs will be given a minimum of 30 days' notice before the Agency implements its reentry plans. This required 30 days' notice shall not be given prior to

the execution by all parties of this MOU. The reentry period covered by this agreement will last no fewer than six months from the date of reentry given to the ALJs.

2. If warranted, the Agency may choose to extend the reentry period covered by this MOU. If the Agency takes such action, the Agency will provide the Union with at least 30 days' notice of this decision. This notice will include the amount of time by which the Agency will extend the reentry period. Any extensions of the reentry period will be for a minimum of 60 days.
3. If the Agency does not wish to extend the reentry period, the Agency will provide the Union with at least 45 days' notice of its intent to terminate the reentry conditions covered by this MOU. The Agency agrees to bargain this change as required by 5 U.S.C. Ch. 71 and further agrees not to terminate the reentry period until such time as the parties comply with their bargaining obligations, to include resolution by the Federal Service Impasses Panel if required.
4. In order to assist the parties in forming future plans for the hearing process, on a monthly basis, the Agency will provide to the AALJ President or designee a report with the number of in-person hearings scheduled, the number of virtual hearings scheduled, and the percentage of in-person and virtual hearings that were conducted for the relevant time period. This report should include information on the national, regional, and individual hearing office levels.

Section H. Implementation of this MOU

1. This MOU will be effective upon completion of Agency Head Review (AHR) as set forth in 5 USC 7114(c). If upon AHR, any portion of this MOU is disapproved, the parties will renegotiate the entire MOU in accordance with 5 USC Ch. 71 and the National Agreement.
2. The Agency will provide a copy of this MOU to the AALJ President within 10 days of approval by the Agency Head and will post a copy of this MOU to the OLMER website within ten (10) days after Agency Head Approval.
3. This MOU does not, and is not intended to, limit the scope of any reasonable accommodation an ALJ may be entitled to under the ADA and the Rehabilitation Act.
4. This MOU concerns pre-implementation bargaining. Accordingly, the Agency will ensure that this MOU is fully implemented prior to any bargaining unit member ALJs returning to the office to hold in-person hearings.

FINAL
1/14/22

For the Agency:

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/s/ Eddie Taylor

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