

Chief Counsel for Europe, Africa, and Middle East Area Office; each Regional Counsel; and each Center Counsel. This authority may be delegated further.

(2) An agency attorney may not include:

(i) The Chief Counsel or the Assistant Chief Counsel for Litigation;

(ii) Any attorney on the staff of the Assistant Chief Counsel for Litigation who advises the FAA decisionmaker regarding an initial decision or any appeal to the FAA decisionmaker; or

(iii) Any attorney who is supervised in a civil penalty action by a person who provides such advice to the FAA decisionmaker in that action or a factually-related action.

(b) *Advisors to the FAA decisionmaker.*

(1) The Chief Counsel, the Assistant Chief Counsel for Litigation or an attorney on the staff of the Assistant Chief Counsel for Litigation, will advise the FAA decisionmaker regarding an initial decision or any appeal of an action to the FAA decisionmaker.

(2) An agency employee engaged in the performance of investigative or prosecutorial functions must not, in that case or a factually-related case, participate or give advice in a decision by the administrative law judge or by the FAA decisionmaker on appeal, except as counsel or a witness in the public proceedings.

§ 406.107 Appearances of parties, and attorneys and representatives.

(a) Any party may appear and be heard in person.

(b) Any party may be accompanied, represented, or advised by an attorney or representative designated by the party.

(1) An attorney or representative who represents a party must file a notice of appearance in the action with the Docket Management System and must serve a copy of the notice of appearance on each other party before participating in any proceeding governed by this subpart.

(2) The attorney or representative must include his or her name, address, and telephone number in the notice of appearance.

(3) That attorney or representative in any proceeding governed by this subpart may examine the party.

(4) Service of a document on the party's attorney or representative is considered to be service on the party.

(c) An agency attorney represents the complainant.

§ 406.109 Administrative law judges—powers and limitations.

(a) *Powers of an administrative law judge.* In accordance with the rules of this subpart, an administrative law judge may:

(1) Give notice of, and hold, pre-hearing conferences and hearings;

(2) Administer oaths and affirmations;

(3) Issue subpoenas authorized by law and requested by the parties;

(4) Rule on offers of proof;

(5) Receive relevant and material evidence;

(6) Regulate the course of the hearing in accordance with the rules of this subpart;

(7) Hold conferences to settle or to simplify the issues by consent of the parties;

(8) Dispose of procedural motions and requests; and

(9) Make findings of fact and conclusions of law, and issue an initial decision.

(b) *Duties to maintain the record.*

(1) The administrative law judge must file with the FDMS, or instruct the party to file with the FDMS, a copy of each document that is submitted to the administrative law judge that has not been filed with FDMS, except the portions of those documents that contain confidential information.

(2) The administrative law judge must file with the FDMS a copy of each ruling and order issued by the administrative law judge, except those portions that contain confidential information.

(3) The administrative law judge must file with the FDMS, or instruct the court reporter to file with the FDMS, a copy of each transcript and exhibit, except those portions that contain confidential information.

(4) The administrative law judge must maintain any confidential information filed in accordance with § 406.117 and deliver it to the Assistant Chief Counsel for Litigation when the