

§ 15.737-19

§ 15.737-19 Administrative Law Judge.

(a) *Appointment.* An Administrative Law Judge appointed as provided by 5 U.S.C. 3105 (1966), shall conduct proceedings upon complaints for the administrative disciplinary proceedings under this part.

(b) *Power of Administrative Law Judge.* Among other powers, the Administrative Law Judge shall have authority, in connection with any proceeding assigned or referred to him/her, to do the following:

- (1) Administer oaths and affirmations;
- (2) Make rulings upon motions and requests, which rulings may not be appealed from prior to the close of a hearing except, at the discretion of the Administrative Law Judge, in extraordinary circumstances;
- (3) Determine the time and place of hearing and regulate its course and conduct;
- (4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;
- (5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;
- (6) Take or authorize the taking of depositions;
- (7) Receive and consider oral or written argument on facts or law;
- (8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;
- (9) Assess the responsible party extraordinary costs attributable to the location of a hearing;
- (10) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and
- (11) Make initial decisions.

§ 15.737-20 Hearings.

(a) *In general.* The Administrative Law Judge shall preside at the hearing on a complaint for the suspension of a former officer or employee from practice before the Department. Hearings shall be stenographically recorded and transcribed and the testimony of witnesses shall be taken under oath or affirmation. Hearings will be conducted pursuant to 5 U.S.C. 556.

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(b) *Public access to hearings.* Hearings will be closed unless an open hearing is requested by the respondent, except that if classified information or protected information of third parties (such as tax information) is likely to be adduced at the hearing, it will remain closed. A request for an open hearing must be included in the answer to be considered.

(c) *Failure to appear.* If either party to the proceeding fails to appear at the hearing, after due notice thereof has been sent to him/her, he/she shall be deemed to have waived the right to a hearing and the Administrative Law Judge may make a decision against the absent party by default.

§ 15.737-21 Evidence.

(a) *In general.* The rules of evidence prevailing in courts of law and equity are not controlling in hearings on complaints for the suspension of a former officer or employee from practice before the Department. However, the Administrative Law Judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(b) *Depositions.* The deposition of any witness taken pursuant to §15.737-22 of this part may be admitted.

(c) *Proof of documents.* Official documents, records and papers of the Department shall be admissible in evidence without the production of an officer or employee to authenticate them. Any such documents, records, and papers may be evidenced by a copy attested or identified by an officer or employee of the Department.

(d) *Exhibits.* If any document, record, or other paper is introduced in evidence as an exhibit, the Administrative Law Judge may authorize the withdrawal of the exhibit subject to any conditions which he/she deems proper.

(e) *Objections.* Objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include argument thereon, except as ordered by the Administrative Law Judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the rights of the parties.