NATIONAL AGREEMENT

BETWEEN

THE ASSOCIATION OF ADMINISTRATIVE LAW JUDGES (AALJ), INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS (IFPTE), AFL-CIO

AND

OFFICE OF DISABILITY ADJUDICATION AND REVIEW

The effective date of this Agreement is:
September 30, 2013

Social Security Administration
Office of Labor Management and Employee Relations

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PREAMBLE

This Agreement is entered into by and between the Social Security Administration/Office of Disability Adjudication and Review (hereinafter referred to as "Employer" or "ODAR") and the Association of Administrative Law Judges, International Federation of Professional and Technical Engineers, AFL-CIO & CLC (Canadian Labour Congress) (hereinafter referred to as "AALJ").

The Parties mutually recognize that the Congress of the United States has expressed public policy concerning labor relations in the Federal Government as follows:

> . . . the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, safeguards the public interest, contributes to the effective conduct of the public business, and facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment; and the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the government. Therefore, labor organizations and collective bargaining in the civil service are in the public interest. 5 U.S.C. §7101

Pursuant to this policy, the Parties have agreed upon the various articles hereinafter set forth. This Agreement constitutes a Collective Bargaining Agreement (CBA) between the Employer and AALJ.

ARTICLE 1

DURATION AND TERMINATION

Section 1

This Agreement will be implemented and become effective per the Parties' February 4, 2010, Ground Rules MOU.

Section 2

This Agreement shall remain in effect for a period of four (4) years from September 30, 2013 and shall automatically renew from year to year thereafter except where changes in the law, rule, or regulation mandate modification of the Agreement. In addition, the Parties may extend for a longer period by mutual consent. However, either Party may give notice to the other Party, in writing, at least sixty (60) days, but not more than one-hundred-five (105) days prior to the expiration date of its intention to reopen, amend, modify, or terminate this Agreement. Ground rule negotiations will then begin no later than forty-five (45) calendar days after receipt of the notice provided by either Party. Such ground rule negotiations shall be conducted in accordance with Article 2, Section 5, as to number of bargaining days, number of negotiators, and location.

Section 3

A. In the administration of all matters covered by this Agreement, the Parties are governed by existing or future laws, existing government-wide rules and regulations as defined in 5 U.S.C. Chapter 71, and by government-wide rules or regulations issued after the effective date of this Agreement and regulations implementing 5 U.S.C. §2302.

B. Unless otherwise specifically preserved in this Agreement, this Agreement supersedes all prior Memoranda of Understanding, Supplemental Agreements, or any other written agreements agreed to by the Parties prior to the Employer's November 30, 2009, notice to terminate such agreements, and such agreements shall cease to have effect and control. In order to change any Memoranda of Understanding, Supplemental Agreements, or any other written agreements agreed to by the Parties between November 30, 2009 (Employer's notice date) and the effective date of this Agreement and that are not covered by this Agreement (as defined by FLRA case law), the Employer shall provide notice and, upon request, bargain with the AALJ to the extent required by 5 U.S.C. Chapter 71. This Agreement supersedes all past practices unless they were in effect on the date of this Agreement and not covered by this Agreement, as defined by FLRA case law. In order to change any past practices that were in effect on the date of this Agreement and not covered by this Agreement, the Employer shall provide notice and, upon request, bargain to the extent required by 5 U.S.C. Chapter 71.

ARTICLE 2

MID-CONTRACT NEGOTIATIONS

Employer Initiatives During the Term of this Agreement

Section 1

A. The AALJ recognizes that the Employer has the right to exercise its management rights as set forth in the Civil Service Reform Act and this Agreement and, in accordance with applicable law, rule, regulation, and this Agreement, to initiate changes in operational and administrative procedures and programs when the Employer determines it is in the interest of the Agency to do so.

B. The Employer recognizes that the AALJ, in accordance with law, has the right to receive timely advance notice of any changes in the conditions of bargaining unit Judges' employment.

C. The Employer and the AALJ agree that it is in the interest of the Parties to expeditiously resolve bargaining issues.

D. The duties of the Parties to negotiate in good faith under this Article shall include the obligation to:

1. Approach negotiations with a sincere resolve to reach agreement;

2. Be represented by duly authorized representatives prepared to discuss and negotiate on the subjects authorized by this Article;

3. Meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

4. In the case of the Employer, to furnish data to the AALJ, upon request and to the extent not prohibited by law:

    a. Which is normally maintained by the Employer in the regular course of business;

    b. Which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

    c. Which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors relating to collective bargaining.

5. If agreement is reached, to execute on the request of any Party to the negotiation a written document embodying the agreed terms and to take such steps as are necessary to implement such agreement.

E. Should a provision of any agreement negotiated pursuant to this Article be rendered invalid by appropriate authority (except the Agency head) after the effective date of this Agreement, either Party may reopen the specifically affected sections as well as issues clearly and unmistakably bargained away as part of any agreement on the terms rendered invalid.

F. Should a provision of any agreement negotiated pursuant to this Article be rendered invalid by the Agency head after the effective date of this Agreement, either Party at its option may request reopening negotiations on the disapproved provision(s), and/or the AALJ may repudiate the agreement or any part thereof and reopen negotiations on any of the repudiated provisions.

Section 2

The Employer agrees not to unilaterally establish or change any personnel policy, practice or condition of employment that terminates or conflicts with specific terms or conditions of this Agreement.

A. However, mandatory amendments may be required after the effective date of this Agreement because of new laws or changes to existing laws. In the administration of all matters covered by this Agreement, the Parties are governed by the following: existing and future laws; government-wide rules and regulations in effect on the effective date of this Agreement; SSA and ODAR rules and regulations in effect on the effective date of this Agreement; and government-wide rules or regulations issued after the effective date of this Agreement. Where the terms of this Agreement conflict with government-wide rules and regulations issued after the effective date of this Agreement, the terms of this Agreement shall be controlling.

B. In such an event, the Parties shall meet within fifteen (15) workdays after receipt of a written request from either Party for the purpose of negotiating those amendments to the Agreement required to bring this Agreement into conformity with new laws or the changes in existing laws.

C. The Parties shall agree on mutually satisfactory arrangements for the conduct of these required negotiations. Where they cannot agree, these negotiations shall be conducted in accordance with the ground rules described below for normal mid-contract negotiations. Amendments resulting from these negotiations shall be effective upon signing by the Parties.

Section 3

A. The Employer further agrees not to unilaterally establish or change any personnel policy, practice or condition of employment not specified by this Agreement, except as provided by this section, or by law. The Employer shall provide the AALJ with reasonable advance notice, (but normally not less than ten (10) workdays), of intended changes in terms and conditions of bargaining unit members' employment. The AALJ shall have ten (10) workdays in which to invoke its right to negotiate over the requested change by submitting written notice of its intent to do so. The AALJ shall not be required to submit written proposals in advance of the start of the bargaining period, but agrees to make good faith efforts to submit proposals, in part or in whole, prior to arriving at the bargaining site, whenever practicable. The Parties may mutually agree to waive the above constraints.

   The notice shall include the following:

   1. A description of the desired change;

   2. An explanation of how this change shall be implemented;

   3. An explanation of why the proposed change is necessary;

   4. The proposed implementation date, if known; and

   5. The identity of the Employer's representative.

B. The Employer shall provide notice of Employer-initiated changes as follows:

   1. National or multi-regional issues to the AALJ President or his/her designee(s).

   2. Regional or hearing office issues to the appropriate AALJ Regional Vice President and served upon the AALJ President or his/her designee.

Section 4

A. The Parties agree that proposed changes that apply on a nationwide or multi-regional basis shall be negotiated at the ODAR Central Office level.

B. Proposed changes which shall be implemented in hearing offices in more than one (1) region made pursuant to a national or multi-regional initiative that require variation in the changes to meet the needs of each individual hearing office shall be negotiated at the regional office level in each affected region.

C. Proposed changes that apply at more than one (1) hearing office within a region shall be negotiated at the regional office level.

D. Proposed changes that apply to one (1) hearing office shall be negotiated at that hearing office level.

E. The Employer and the AALJ can agree to conduct negotiations at any mutually agreeable facility.

F. The Deputy Commissioner for ODAR, or designee, and the AALJ President or designee, may agree to conduct negotiations at any mutually agreeable level other than the level provided above, where it would further the Parties' interest in uniform application of Employer initiatives during the term of this Agreement.

G. Both Parties agree that officials of SSA/ODAR and the AALJ at levels lower than the national level do not have authority to negotiate agreements that conflict with this National Agreement.

Section 5

Where negotiating meetings are required, the meeting shall be conducted as follows:

A. Negotiations shall take place at a suitable facility provided by the Employer.

B. Negotiations shall be conducted during the regular administrative workday of the office where negotiations are taking place.

C. A Judge representing the AALJ under this Article shall be authorized taxpayer-funded union time for such purposes during the time the Judge would otherwise be in a duty status. The bargaining teams shall be limited to two (2) members for each Party unless the Parties mutually agree otherwise. The number of Judges for whom taxpayer-funded union time is authorized under this section shall not exceed the number of individuals designated as representing the Employer for such purposes. The Parties recognize that from time-to-time the bargaining teams can mutually agree to include briefings or special representatives to facilitate negotiations.

D. The Parties agree that consistent with the opportunity for full discussions of proposals, every reasonable effort shall be made to use alternative methods such as conference calls, where there is mutual consent to do so. Negotiations may be extended beyond three (3) days by mutual agreement of the Parties.

E. Negotiations shall commence on a mutually agreeable date. Absent such mutual agreement, negotiations shall commence on the twentieth (20th) calendar day after the Employer received the AALJ's request to negotiate (if a workday, otherwise the next succeeding workday).

Section 6

Upon certification of an impasse between the Parties in connection with negotiations conducted under this Article, either Party can appeal to the Federal Service Impasses Panel and may request binding interest arbitration. If this procedure is invoked, the Employer shall postpone the implementation of any change until the impasse is resolved, except where the implementation is otherwise permitted by law. The Employer retains the right to implement its last, best, and final offer in the event the AALJ fails to seek timely assistance from the Federal Service Impasses Panel.

Section 7

If any provision of this Agreement conflicts with a newly passed statute, either Party may reopen that provision for the limited purpose of implementing the newly passed statute.

ARTICLE 3

MANAGEMENT RIGHTS

The Parties agree that management rights, as defined in this Article, are consistent with 5 U.S.C. §7106 and other applicable laws[1].

A. Subject to Subsection B of this Article, nothing in this chapter shall affect the authority of any management official of the Agency:

1. To determine the mission, budget, organization, numbers of employees, and internal security practices of the Agency; and

2. In accordance with applicable laws:

a. To hire, assign, direct, layoff, and retain employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

b. To assign work, make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted;

c. With respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion or any other appropriate source; and

d. To take whatever actions may be necessary to carry out the Agency's mission during emergencies.

B. Nothing in this section shall preclude any Agency and any labor organization from negotiating:

1. At the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

2. Procedures which management officials of the Agency will observe in exercising any authority under this section; or

3. Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

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[1] For example: 5 U.S.C. §3105 (appointment of administrative law judges); 5 U.S.C. §1305 (outline of OPM and MSPB authority when administrative law judges involved); 5 C.F.R. §930.201 *et seq*. (Administrative Law Judge Program); 5 U.S.C. §2302 (prohibited personal practices); 5 U.S.C. §7521 (actions against administrative law judges); 5 U.S.C. §4301 (administrative law judges not included in Federal employee performance appraisal systems); 5 U.S.C. §3344 (Details: administrative law judges); 5 U.S.C. §5372 (pay system for administrative law judges); Butz v. Economou, 438 U.S. 478 (1978) ; Ramspeck v. Federal Trial Examiners Conference, 345 U.S. 128 (1953); Social Security Administration v. Robert W. Goodman, 19 M.S.P.R. 321 (1984); subject to changes in the law.

ARTICLE 4

RECOGNITION

The Social Security Administration, Office of Disability Adjudication and Review (SSA/ODAR) recognizes the Association of Administrative Law Judges, International Federation of Professional and Technical Engineers, AFL-CIO (AALJ) as the exclusive representative of all full-time and part-time non-supervisory Administrative Law Judges (ALJs) within SSA/ODAR, as set forth in certification number WA-RP-90079 dated October 1, 1999.

ARTICLE 5

EMPLOYEE RIGHTS

Section 1

The Parties recognize that the Judges covered by the terms of this Agreement are administrative law judges appointed pursuant to 5 U.S.C. §3105, and are engaged in the performance of duties which require the consistent exercise of discretion, knowledge, and judgment in conducting hearings. These duties are complex and varied as set forth in 5 U.S.C. §7103 (15)(A)(iv) and are of such a character that the output produced or the results accomplished by such work cannot be standardized in relation to a given period of time.

Section 2

A. All Judges shall be treated fairly and equitably in all aspects of employment without regard to political affiliation, race, color, religion, national origin, sex, sexual orientation, marital status, age, handicapping condition, and with proper regard and protection of their privacy and constitutional rights.

B. Judges shall be protected against reprisal for the lawful disclosure of information by a Judge which the Judge reasonably believes evidences a violation of any law, rule or regulation or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

C. Consistent with their appointment under the Administrative Procedure Act and the United States Office of Personnel Management (OPM) approved position description, Judges shall not be required to perform duties or assignments inconsistent with the duties and responsibilities of an administrative law judge as set forth in 5 U.S.C. §3105 and 5 C.F.R. §930.209. An administrative law judge may be assigned to perform duties with approval of OPM and pursuant to 5 C.F.R. §930.209.

D. The Parties agree that in the interest of maintaining a congenial work environment, Employer's employees will deal with each other in a professional manner and with courtesy, dignity, and respect. To that end, all Social Security employees should refrain from coercive, intimidating, loud or abusive behavior.

The Parties further agree that bullying is prohibited in the workplace and will not be tolerated. The Employer will provide information on "Bullying in the Workplace" on the Employer's website.

Section 3 – Grievance and Representation

A. The initiation of a grievance in good faith by a Judge will not reflect adversely on the Judge's standing with the Employer.

B. Any Judge who has relevant information concerning any matter for which remedial relief is available under this Agreement shall, in helping seek resolution of such matter, be assured freedom from restraint, interference, coercion, discrimination, intimidation, and/or reprisal, unless such disclosure of information violates applicable statutes and regulations.

C. The Employer will not impose any restraint, interference, coercion, discrimination, or reprisal against any Judge in the exercise of the Judge's right to designate the AALJ as his or her representative in accordance with Article 10, the Grievance article. The Employer will not impose any restraint, interference, coercion, discrimination, or reprisal against any Judge in the exercise of his or her right to designate an AALJ representative for the purpose of representing the Judge.

D. If a Judge wishes to discuss a problem or potential grievance with an AALJ representative, the Judge shall have the right to contact and meet with the AALJ representative on taxpayer-funded union time. The Judge will be released from duties to contact and meet with the AALJ representative when he or she requests to exercise this right, if the exercise of this right is consistent with the maintenance of his or her hearing case docket in a manner that is in the best interest of the public, i.e., hearings generally will not be cancelled or interrupted for this purpose. The Judge must request and receive prior approval from the HOCALJ or Acting HOCALJ.

Section 4 – Examinations, Meetings, and Investigations

A. Disciplinary Examinations

1. Consistent with 5 U.S.C. §7114(a)(2)(B), as the exclusive representative, the AALJ shall be given an opportunity to be present at any examination of a Judge in the unit by a representative of the Employer in connection with an investigation if the Judge reasonably believes that the examination may result in disciplinary action against the Judge and the Judge requests representation. When the manager is aware that a meeting may result in disciplinary action, the manager will inform the Judge of the general purpose of the meeting and will inform the Judge of his or her right to have an AALJ representative present if he or she chooses. Upon request, the Judge, in such instance, has the right to have an AALJ representative present at such examination pursuant to Article 6 and no further questioning shall take place until the Judge's representative is present as provided by this section.

2. If the AALJ representative is unavailable, the examination shall be terminated and rescheduled as soon as the AALJ representative has become available provided no unreasonable delay occurs. The Parties recognize that while in-person representation is preferred, telephonic participation by the AALJ representative is permitted. When in-person representation is not possible, due to travel hearing schedule conflicts for example, but the Judge has requested his or her appointed

AALJ representative participate by telephone, the Employer agrees that telephonic representation should be permitted.

3. Any examination of a Judge by a representative of the Employer that may lead to disciplinary action will be conducted in a private room. The AALJ representative's role during the examination will be consistent with applicable case law.

4. The Employer agrees to annually inform employees of their rights under 5 U.S.C. §7114(a)(2)(B) through an electronic transmission which contains a link to the OPE Website.

B. Formal Meetings

1. Consistent with 5 U.S.C. §7114(a)(2)(A), as the exclusive representative of the Judges in ODAR, the AALJ shall be given the opportunity to be represented at any formal discussion between one or more representatives of the Employer and one or more Judges or their representatives concerning any grievance, formal EEO complaint, settlement discussions or any personnel policy or practices or other general conditions of employment. The Employer will give the AALJ reasonable advance notice to exercise its rights under this section. When practicable, notice shall be given at least two (2) Employer workdays in advance of the discussion.

2. The Employer is under no obligation to delay the start of the meeting if the AALJ representative is not present, unless the AALJ representative is unavailable due to the maintenance of his or her hearing case docket in a manner that is in the best interest of the public, i.e., hearings generally will not be cancelled or interrupted for this purpose, he or she has specifically asked that the meeting be delayed, and the Employer has determined that the meeting is not urgent.

3. Consistent with 5 U.S.C. Chapter 71, the Employer will not communicate directly with Judges regarding conditions of employment in a manner that will improperly bypass the AALJ under law.

C. In conducting investigations regarding a non-criminal matter that may result in an adverse determination about a Judge's rights, benefits, or privileges, the Privacy Act requires that, to the extent practicable, information should be initially collected directly from the subject Judge.

D. OIG Investigations

1. The Parties recognize the need for confidentiality during investigations of sensitive issues.

2. A copy of the statement of the Judge will be routinely given to the Judge after the OIG provides ODAR with a copy of the OIG report.

3. When a Judge becomes the subject of an investigation, the Judge shall be notified in writing. The Judge shall also be notified in writing when such investigation has closed.

4. In connection with complaints made by Judges, disclosure of identity, and reprisals against the Judge shall be governed pursuant to Title 5 U.S.C. Appendix (Inspector General Act of 1978) §7, as amended:

    a. The Inspector General may receive and investigate complaints of information from a Judge concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or substantial and specific danger to the public health and safety.

    b. The Inspector General shall not, after receipt of a complaint of information from a Judge, disclose the identity of the Judge without the consent of the Judge, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

    c. Any management official who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any Judge as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with knowledge that it was false or with willful disregard for its truth or falsity.

Section 5

ODAR has decided that the time frames set forth in the Benchmarks for case processing contained in the CPMS report are guidelines for the management officials and will not be used as a source of any disciplinary or performance action. The Judges are encouraged by ODAR to aim to meet the guidelines and cooperate with benchmark reports.

Section 6 – Complaints Regarding Attorney and Non-Attorney Representatives

A Judge may provide written adverse information about an attorney or non-attorney representative directly to the Office of General Counsel; a copy of the information will also be simultaneously provided to the appropriate RCALJ.

Section 7 – Complaints Regarding a Judge

Any observation or complaint regarding a Judge's conduct occurring outside of the hearings and appeals process that may be used to propose discipline will be brought to the attention of the Judge as soon as possible after the receipt of the complaint.

Section 8

A. In accordance with existing law and OGE rules and regulations, Judges have the right to present their personal views to the Congress, the Executive Branch or other government authorities or officials.

B. Nothing in this contract is intended to limit or abridge a Judge's First Amendment rights.

C. The Employer may not discipline a Judge who refuses to obey an order of an Employer official that is found to be unlawful or illegal.

D. The Employer will provide the AALJ President with reasonable advance notice of written personnel surveys concerning conditions of employment that involve bargaining unit employees when such surveys are initiated, or approved for distribution by SSA, at the SSA national level and ODAR level. The Employer will also provide the AALJ with an advance copy of the survey results as soon as possible.

E. The Employer will encourage law enforcement officials to pursue allegations of criminal conduct violative of 18 U.S.C. §111 (Assaulting, Resisting, or Impeding Certain Officers or Employees), §115 (Influencing, Impeding, or Retaliating Against a Federal Official by Threatening or Injuring a Family Member), §372 (Conspiracy to Impede or Injure Officer), §876 (Mailing Threatening Communications), §1111 (Murder), §1112 (Manslaughter), §1113 (Attempt to Commit Murder or Manslaughter), §1114 (Protection of Officers and Employees of the United States), §1117 (Conspiracy to Murder), §1201 (Kidnapping) and 42 U.S.C. §1320a-8b (Attempts to Interfere with Administration of Social Security Act) involving any Judge while engaged in or on account of the performance of any Judge's official duties where the Employer determines such action is warranted.

Section 9

Each Judge shall have the right to join or assist the AALJ or to refrain from any such activity without fear of penalty or reprisal. Nothing in this Agreement will require a Judge to become or remain a member of a labor organization or to pay money to the organization unless pursuant to a voluntary written authorization by the Judge for payment of dues through payroll deductions or by voluntary cash/check dues payment by the Judge. Except as otherwise provided in law and this Agreement, such rights shall include the following:

A. The right to act for the AALJ in the capacity of a representative.

B. The right, in that capacity, to present the views of the AALJ, to heads of agencies, and other officials of the executive branch of the government, the Congress, or other appropriate authorities. *See* 5 U.S.C. §7102.

C. The right to engage in collective bargaining with respect to terms and conditions of employment through representatives of the AALJ.

Section 10 – Reduction-In-Force

The Employer and the AALJ recognize that Judges may be seriously and adversely affected by a reduction-in-force action and the need to protect the rights and interests of the Judge in this action. In the event of a reduction-in-force the Employer shall notify the AALJ and the Judge pursuant to 5 C.F.R. Part 351 and 5 C.F.R. §930.210 and fulfill its obligation to bargain consistent with 5 U.S.C. Chapter 71.

A. The Employer shall provide written notification to the AALJ at the earliest possible date, but not less than sixty (60) calendar days prior to the notice to the Judges. The notice shall include:

    1. The reason for the action to be taken;

    2. The approximate number of Judges who may be affected initially; and

    3. The anticipated effective date that action will be taken.

B. The Employer shall provide the AALJ, upon request, with information in accordance with 5 U.S.C. §7114(b)(4).

C. The Employer shall provide a specific notice, at least sixty (60) calendar days in advance to individual Judges who will be affected by a reduction-in-force action.

Section 11

The AALJ has the right to be present during questioning of potential bargaining unit witnesses for any third party hearing.

Section 12

To the maximum extent permitted by law, an Administrative Law Judge will set the time and place for the hearing.

ARTICLE 6

AALJ RIGHTS

Section 1

Consistent with 5 U.S.C. §7114(a)(2)(A), the AALJ will be afforded an opportunity to be represented at any formal discussion between one (1) or more representatives of the Employer and one (1) or more Judges or their representatives concerning (a) any grievance or (b) any personnel policy or practice or other general condition of employment. For discussions with Judges concerning grievances, the Employer official intending to hold such a discussion will provide the appropriate AALJ representative with reasonable advance notice of the discussion. For formal discussions dealing with matters other than grievances, the AALJ will be given advance notice of the meeting by telephonically contacting the AALJ President or designee, when practicable, at least two (2) workdays in advance of the discussion.

Section 2

At those meetings where the AALJ is represented, the attendance of the AALJ Representative will be acknowledged by the Employer official at the start of the meeting. Furthermore, the Employer official will permit the AALJ Representative to ask questions, and to present a brief statement before the end of the meeting outlining the AALJ position concerning the issues. All issues to be discussed at the meeting by the Employer official will be listed in a written agenda, where possible, which will be forwarded to the AALJ at the same time that the AALJ receives prior notice of the meeting.

Section 3

The AALJ may refuse to represent non-members in matters outside the contract, e.g., statutory appeals, adverse actions, or EEO complaints.

ARTICLE 7

JUDICIAL TRAINING AND EDUCATION

Section 1

A. Judicial excellence is the cornerstone of due process hearing adjudications. Judicial education is essential for Judges to maintain the knowledge, skills, and abilities required to carry out their adjudicatory function.

B. Recognizing this need, the Parties agree to establish an advisory Judicial Education Committee (JEC) consisting of three (3) Judges appointed by the AALJ President and three (3) management representatives, appointed by the Employer. The AALJ President and the Deputy Commissioner for ODAR or designee shall each appoint one of their committee members to serve as Co-Chair of the JEC. The committee will establish the ground rules under which it will operate.

C. The JEC may identify education and training topics for initial and continuing judicial education and propose training and education programs. If the Chief Administrative Law Judge (CALJ) has agreed that training and education is needed in an area so identified, the JEC will prepare and present a proposed training and education program that will be submitted to the CALJ.

D. The Employer will provide a reasonable amount of taxpayer-funded union time, in accordance with Article 9, for AALJ participants to prepare for and participate in JEC meetings.

E. Good faith consideration of the JEC recommendation shall be given by the CALJ, or his/her designee, on training proposals and needs. ODAR has determined that decisions regarding training will be made by the CALJ, or his/her designee. The CALJ shall respond to all JEC recommendations from the JEC within 60 days.

F. ODAR has determined that as far as practicable, the Employer shall provide newly appointed Judges with training before the Judges begin hearing their own dockets of cases. ODAR has determined that the education faculty shall be authorized a reasonable amount of duty time for program design and preparation.

Section 2. AALJ Education Conference

A. The Employer agrees to provide support (as set forth below) to AALJ in delivering the AALJ's Annual Education Conference ("Conference").

B. The AALJ will notify the Employer of the dates of its Conference not less than 180 days prior to the first day of the Conference.

C. In keeping with a collaborative spirit, the Employer will encourage Employer managers and Office of General Counsel (OGC) attorneys to attend and participate in the Conference at the invitation of AALJ.

D. All AALJ conference attendees, including the AALJ President, AALJ Education Conference Chair, and AALJ Education Committee members, facilitators, and presenters will be entitled to up to five (5) days of administrative leave for the time traveling to and from and attending the AALJ Conference.

E. In addition, the AALJ President may use taxpayer-funded union time from the bank for matters related to the planning of the Conference and preparation of any presentations made by the AALJ President at the Conference. To the extent authorized by the AALJ President from the bank, the AALJ Education Conference Chair and AALJ Education Committee Members may use taxpayer-funded union time for matters reasonably related to the planning of the Conference. Presenters at the Conference will be provided reasonable paid time (not to exceed eight hours for any individual presenter) in the form of administrative leave for preparation of their presentations. At the discretion of the AALJ President and so long as available from the bank, presenters at the Conference may also be allotted taxpayer-funded union time from the bank if such time is needed for preparation of their presentations. Under no circumstances may taxpayer-funded union time provided under this Article result in any presenter who is an AALJ official exceeding his or her individual cap on taxpayer-funded union time hours contained in Article 9 of this Agreement.

F. The Employer will provide 5 days of administrative leave for any Judge who wishes to attend the AALJ Annual Education Conference.

Sidebar

ALJs may obtain approval for administrative leave to attend one of the following training opportunities per fiscal year.

- Up to five days to attend the National Judicial College's Educational sessions; or

- Up to two days to attend professional courses directly related to an ALJ's work (this option is not available to ALJs who receive two or more days of off-site ODAR training); or

- All or portions of the Association of Administrative Law Judges Annual National ALJ Education Conference. Further guidelines for this attendance will be forwarded under a separate memorandum for each annual conference.

All travel must be accomplished either within the administrative leave time (as authorized above) or on the ALJ's personal time.

A Training Nomination and Authorization form SSA-352 must be submitted to the Hearing Office Chief Administrative Law Judge (HOCALJ) to request administrative leave. The SSA-352 must indicate the need for the training and how the course relates to the performance of the ALJ's official duties. In the comments section of the SSA-352, the ALJ should indicate that he/she will pay for all tuition, fees, per diem, and travel expenses.

To receive approval for administrative leave, the HOCALJ should forward the initiated, signed SSA-352 to the Regional Chief Administrative Law Judge (RCALJ) for concurrence and approval. The SSA-352 will be approved if the following conditions are met:

1) The course is related to the ALJ's position; and

2) The ALJ's fiscal year allotment has not been exceeded.

Approval of the SSA-352 will not be dependent on mandatory CLE requirements. Fully and accurately completed SSA-352s should be submitted to the RCALJ at least 45 days prior to the anticipated start date of the course. The electronic (fillable) form SSA-352 may be completed online under the Start button software applications. Upon RCALJ approval of the SSA-352, the nomination should be forwarded to the Office of the Chief Administrative Law Judge (OCALJ). These procedures are required to ensure full and proper accounting for approved training time (work years, lost production time, etc.). For purposes of budget-tracking and accounting of ALJ training hours, OCALJ will provide to the Office of Management the approved SSA-352s.

ARTICLE 8

AALJ USE OF EMPLOYER'S EQUIPMENT

Section 1

A. Union representatives, who are agency employees, will only be allowed to use Agency equipment, e.g. computers, email, and telephones, for representational activity in response to a management initiated action, e.g. union response to management notice of a formal discussion or union response to a call from an employee in a Weingarten interview. Union representatives will also be allowed to use Agency computers to submit requests for taxpayer-funded union time in OUTTS.

B. The Employer's above-listed equipment may not be used to conduct internal union business.

C. The Parties agree that persons using the above-listed equipment on behalf of the AALJ shall be in non-duty or taxpayer-funded union time status, and shall not impede the work of the Employer.

D. The AALJ may not use any Employer personnel, who are in work status for the Employer, for any AALJ business.

Section 2

The AALJ's four (4) National Officers (President, Executive Vice President, Secretary, and Treasurer), National Grievance Chair, Deputy National Grievance Chair, and up to eleven (11) Regional Vice Presidents shall be permitted to use privately owned personal computers or office equipment on Employer property, except that these privately owned personal computers and office equipment cannot be connected in any way with any of the Employer's equipment or its computer system.

A. The placement of such equipment shall be reviewed by local office management in order to assure employee safety (e.g. that the office's electrical service is not overloaded). The Employer agrees to address any overload conditions on a case-by-case basis.

B. The Employer will not be held responsible for loss, damage, or theft of such privately owned equipment while in government-owned or leased property.

ARTICLE 9

TAXPAYER-FUNDED UNION TIME

Preamble

Taxpayer-funded union time users are expected to accomplish their Employer assigned duties, and shall spend at least three quarters of paid time performing agency business. "Paid time" is defined as time for which an employee is paid by the Federal Government, including both duty time, in which the employee performs agency business, and taxpayer-funded union time. It does not include time spent on paid or unpaid leave, or an employee's off-duty hours.

Section 1

For purposes of this Agreement the term "taxpayer-funded union time" shall mean official time granted to an employee pursuant to section 7131 of Title 5, United States Code.

Judges may not use taxpayer-funded union time to prepare or pursue grievances (including arbitration of grievances) brought against the Agency under Articles 10 and 11 of this Agreement, except for:

1. a judge using taxpayer-funded union time to prepare for, confer with an exclusive representative regarding, or present a grievance brought on the judge's own behalf; or to appear as a witness in any grievance proceeding; or

2. a judge using taxpayer-funded union time to challenge an adverse personnel action taken against the employee in retaliation for engaging in federally protected whistleblower activity, in accordance with law.

Time used by any judge for the above exceptions is charged to the bank as identified in Section 7.

Section 2

A. Taxpayer-funded union time may only be used on the days and during the times that an AALJ official would be otherwise in a duty status, but may on occasion involve extended work days and weekends including Sunday (i.e., bargaining or hearing preparation). Internal AALJ business will be conducted on non-duty time. In addition, employees may not engage in lobbying activities during paid time.

B. Taxpayer-funded union time may be used to claim credit hours if representation activities or negotiations (as noted in paragraph A, above) last longer than normal duty hours during a workday or occur on a weekend in accordance with the provisions of the credit hour plan contained in Hours of Work, Article 14.

Section 3

The AALJ President shall provide the Employer with a current updated list of Judges who are designated to engage in representational activities on behalf of the AALJ. Provided, however, that Judges serving on the National Labor/Management Committee, the Health and Safety Committee, Joint Technology Advisory Committee, and the Judicial Education Committee shall be authorized to use taxpayer-funded union time pursuant to the terms of this Article for these activities.

Section 4

Subject to the limitations in Sections 1 and Section 7, Judges covered by this Agreement will be accorded reasonable taxpayer-funded union time, to consult with an AALJ representative for representational purposes or for representing themselves consistent with the terms of this Agreement and applicable regulations and law. This includes time for preparation, attendance (at meetings and/or hearings) and travel of the Judge for matters such as, grievance/arbitration, FLRA, MSPB, EEO, or other disciplinary actions, adverse action proceedings, and ULP charges and/or complaints. The Judge will request and have advance approval of such use of taxpayer-funded union time. The Judge will continue to administer and control his/her hearing case docket in a manner that is in the best interest of the public.

Section 5

A. The AALJ President will provide the Office of Labor Management and Employee Relations (OLMER) with electronic lists of all designated union representatives within thirty (30) days of the effective date of this Agreement. The AALJ President will continue to provide OLMER with updated summary lists as necessary. Each list will include the name, duty location, and telephone number of each designated union representative.

B. Only those union representatives identified on the list provided by the AALJ President will be authorized taxpayer-funded union time under this Article.

Section 6 – Provisions for Taxpayer-Funded Union Time

A. Taxpayer-funded union time must be requested in advance of use. Sufficient information (time, date, representational category and specific location if other than normal duty station) must be included with the submission to allow the approving official to determine if the time requested and activity described met the criteria outlined in this Article. Any judge who uses taxpayer-funded union time without advance management approval will be considered absent without leave and subject to appropriate disciplinary action.

B. OUTTS will be modified to accommodate the provisions of this Article. If the Employer proposes modifications to OUTTS beyond the provisions of this Article, it will provide

notice to the Union and, upon request, bargain to the extent required by 5 U.S.C. Chapter 71.

C. Taxpayer-funded union time will be reported in the following categories:

1. Term Negotiations—to prepare for and negotiate a collective bargaining agreement.

2. Mid-Term Negotiations—to prepare for and bargain over issues raised during the life of a term agreement.

3. Dispute Resolution—to process grievances up to and including arbitrations in accordance with Section 1 and to process appeals of bargaining unit employees to the MSPB, FLRA and, as necessary, to the courts.

4. General Labor-Management Relations—meetings between labor and management officials to discuss general conditions of employment, labor-management committee meetings, labor relations training for union representatives, union participation in formal meetings and investigative interviews and all other general labor relations activities consistent with 5 U.S.C. Chapter 71.

D. The Deputy Commissioner and/or designee will provide to the AALJ President a monthly report showing the taxpayer-funded union time used for each region, the total time used for each region, the amount of taxpayer-funded union time charged against the pool, and the amount of taxpayer-funded union time remaining in the pool. Monthly reports will be provided within 20 calendar days after the end of each month.

E. All requests for taxpayer-funded union time will be submitted via OUTTS or equivalent electronic reporting system. The Employer will make modifications to the existing OUTTS screen to comport with the terms of this Agreement. The AALJ President and the AALJ Executive Vice President shall be provided with the name and contact information of a person who operates the OUTTS system within the Employer who will run reports as requested and promptly provide those reports to the requesting AALJ official. At their option and in the alternative the AALJ President and the AALJ Executive Vice President may be trained by the Employer to access the data and run the reports themselves.

Section 7

The AALJ will be allowed to use up to 640 hours per fiscal year for the activities identified in Section 1. Unused taxpayer-funded union time hours do not carry over into the next fiscal year.

Judges who have spent one-quarter of their paid time in any fiscal year on non-agency business may continue to use taxpayer-funded union time in that fiscal year for purposes covered by sections 7131(a) or 7131(c) of title 5, United States Code.

Any time in excess of one-quarter of a judge's paid time used to perform non-agency business in a fiscal year shall count toward the judge's twenty-five (25) percent maximum in subsequent fiscal years.

Section 8

Subject to the limitations in Sections 1 and Section 7:

A. Judges who are witnesses in any proceeding included in this Article will receive a reasonable amount of taxpayer-funded union time to prepare for, attend and to travel to and from meetings or hearings in connection with that proceeding.

B. Judges who are witnesses in arbitration proceedings will receive a reasonable amount of taxpayer-funded union time to prepare for, attend and to travel to and from meetings or hearings in connection with that proceeding.

Section 9

Judges representing the AALJ on a special project mutually agreed to by the Parties will be on taxpayer-funded union time. Pursuant to 5 U.S.C. §7106(a)(1), Judges assigned to a special project initiated by the Employer will be on duty time.

Section 10

It is understood that nothing in this Agreement is intended to limit the statutory rights to taxpayer-funded union time provided pursuant to 5 U.S.C. §7131 or any other statute or regulation.

ARTICLE 10

GRIEVANCE PROCEDURE

The grievance procedure is pursuant to the Federal Service Labor-Management Relations Statute (FSLMRS), subchapter III, 5 U.S.C. §7121 *et seq*.

Section 1

In the interest of harmonious and effective performance of the Employer's mission, the Social Security Administration, Office of Disability Adjudication and Review and the AALJ recognize the importance of prompt and equitable disposition of any grievance at the lowest organizational level possible under the procedures of maximum informality and flexibility. The AALJ, or any Judge, or the Employer shall have the right to present a grievance and have it promptly considered on its merits. The initiation of a grievance by any Judge(s) shall not cast any adverse reflection on his or her standing as an Administrative Law Judge.

Section 2

A grievance is defined as any complaint:

A. By any Judge concerning any matter relating to the employment of the Judge;

B. By the AALJ concerning any matter relating to the employment of any Judge; or,

C. By any Judge, the AALJ, or the Employer concerning:

    1. The effect or interpretation, or a claim of a breach, of this Agreement; or,

    2. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

Section 3

The AALJ has the right to file, as a grievance under this contract, any alleged unfair labor practices (ULP). When it does so, however, it waives its right to file an unfair labor practice charge over the same issue with the appropriate authorities under law and regulation.

Section 4

A. The AALJ has a right on its own behalf or on behalf of any Judge(s) in the bargaining unit to present and process grievances:

1. Any Judge covered by this Agreement has a right to present his or her own grievance. The AALJ has a right to be present during any discussion of the grievance between the grievant and the Employer; and

2. Any grievance not satisfactorily settled under the negotiated grievance procedure set forth below shall be subject to binding arbitration which may be invoked by the AALJ or the Employer.

3. As provided by 5 U.S.C. §7121(b)(2)(A), the provisions of this negotiated grievance procedure which result in binding arbitration shall, to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order:

    a. A stay of any personnel action in a manner similar to the manner described in 5 U.S.C. §1221(c) with respect to the Merit Systems Protection Board (MSPB); and

    b. The taking, by an Agency, of any disciplinary action identified under 5 U.S.C. §1215(a)(3) that is otherwise within the authority of such Agency to take.

B. The preceding subsections of this Agreement shall not apply with respect to any grievance concerning:

1. Any claimed violation relating to prohibited political activities;

2. Retirement, life insurance, or health insurance;

3. A suspension or removal under 5 U.S.C. §7532 (relating to actions in the interests of national security);

4. Any examination, certification, or appointment;

5. The classification of any position which does not result in the reduction in grade or pay of a Judge;

6. The content of 5 C.F.R. §930, subpart B, or as later amended, over which the Employer has no control;

7. Any matter within the original jurisdiction of the Merit Systems Protection Board (MSPB). The Parties acknowledge that the MSPB has been granted original exclusive jurisdiction regarding certain personnel actions, which include any action brought by the Employer against a Judge (pursuant to 5 U.S.C. §1204 and §7521).

C. The Parties acknowledge that this grievance procedure neither expands nor contracts the jurisdiction of the Merit Systems Protection Board as provided by law.

D. Nothing in this Article is intended to limit the arbitrator's authority to determine questions of arbitrability and grievability.

E. A Judge has the option of filing a complaint under the negotiated grievance procedure or under the Employer's EEO complaint procedure, but not both. For the purpose of this Article and pursuant to §7121 of the Civil Service Reform Act, a Judge shall be deemed to have exercised his or her option at such time as the Judge timely initiates an action under the applicable statutory procedure or timely files a grievance in writing in accordance with the provision of this procedure, whichever occurs first.

Section 5

A. A grieving party may be a Judge(s), the AALJ, or the Employer. Any Judge or group of Judges may present such grievances to the Employer and have them settled, without the intervention of the AALJ, as long as the settlement of the grievance is not inconsistent with the terms of this Agreement, and the AALJ has been given an opportunity to be present at any meeting with the grievant regarding settlement of the grievance. However, Judges may not be represented in the processing of a grievance by a representative other than the AALJ. A Judge or group of Judges grieving without the intervention of the AALJ must follow the negotiated grievance procedure.

B. When a Judge files a grievance and does not designate the AALJ as his or her representative, the Employer shall furnish the AALJ, the National Grievance Chair, and the appropriate Regional Vice President with a copy of the grievance filed, and the answers issued at each step, within 5 working days of receipt of the grievance or issuance of the answer.

Section 6

The grievance shall be filed at the Step at which the subject matter of the grievance arose. In the event that the grievant or the AALJ wants an oral presentation at any Step, such request must be in writing in that Step of the grievance at the time of submission, or the right to an oral presentation is waived.

A. The grievance procedure shall consist of the following steps:

STEP ONE. Any Judge may refer a grievance to the AALJ if he or she desires. The grievance will be written and signed by the Judge or his or her representative. At Step One in accordance with this Article, a grievance may be presented to the Judge's Hearing Office Chief Administrative Law Judge (HOCALJ) or his or her Acting HOCALJ. The grievance must be received by the HOCALJ or his or her Acting HOCALJ, or if presented by mail, postmarked within thirty-five (35) working days following the date on which the Judge or AALJ knew or should have known of the facts giving rise to the grievance. When the basis for the grievance is a continuing practice or condition then the grievance can be filed at any time. The grievant or their representative may request an oral presentation in the grievance. If requested, the oral presentation will take place within five (5) working days following the date the grievance was

received unless the parties mutually agree otherwise. A written grievance answer will be issued by the HOCALJ or Acting HOCALJ within twenty (20) working days following the date on which the grievance was received or the oral presentation made.

The written grievance shall include:

1. The name and hearing office of the Judge;

2. State with particularity the issue and the grounds for the grievance, including, any law, rule or regulation or CBA provision violated, if known; and,

3. The corrective action requested and the reasons for such action; and,

4. The name of the designated representative, if any.

STEP TWO. Absent resolution of the grievance at Step One, the Judge and/or his or her representative may present the grievance at Step Two. The Step Two grievance must be in writing and signed by the Judge or his or her representative, and received by the Regional Chief Administrative Law Judge or his or her designee, within twenty-five (25) working days of the issuance of the Step One answer. The grievant or their representative may request an oral presentation in the second step grievance. If requested, the oral presentation will take place within five (5) working days following the date the grievance was received at the second step unless the parties mutually agree otherwise. The Step Two answer will be issued in writing, within twenty (20) working days following the date on which the Step Two grievance was received or the oral presentation made.

STEP THREE. Absent resolution of the grievance at Step Two, the Judge and/or his or her representative may present the grievance at Step Three. The Step Three grievance must be in writing as described above, signed by the Judge and/or his or her representative, and received by the Chief Administrative Law Judge or his or her designee, within fifteen (15) working days of the issuance of the Step Two answer. The grievant or their representative may request an oral presentation in the Step Three grievance. If requested, the oral presentation will take place within five (5) working days following the date the grievance was received at Step Three unless the parties mutually agree otherwise. The Step Three answer must be in writing and will be issued by the Chief Administrative Law Judge, or his or her designee within twenty (20) working days after receipt of the Step Three grievance or the oral presentation made.

B. Failure on the part of the Employer to meet any of the time requirements of this procedure will permit the grievance to advance to the next step upon written initiation by the Judge.

Section 7

A. Employer grievances must be filed within twenty (20) working days of the date the Employer knew or should have known about the matter, unless the matter is a continuing practice or condition, which may be filed at any time.

B. Where the Employer elects to file a grievance pursuant to this Article, such grievance shall be in writing addressed to the President of the AALJ. The AALJ President or his or her designee shall, within thirty (30) workdays after receipt of such grievance, issue a written answer addressed to the Chief Administrative Law Judge or his or her designee who signed the grievance.

Section 8

A. Nothing herein should be deemed as foreclosing the AALJ and the Employer from attempting to settle the grievance without using the foregoing formal grievance procedure.

B. Any of the foregoing time requirements can be extended by mutual written consent of all parties.

C. With the exception of the Step One grievance, which may not be filed by e-mail, all correspondence between the parties for grievance and arbitration processing shall be by United States Postal Service, a commercial delivery service, facsimile machine, e-mail, or delivered in person. If a grievance is filed by e-mail at Step Two and Step Three, it must be sent to a management designated mailbox. If the mailbox is full or otherwise inoperable, the time limits for filing will be extended by five (5) working days. Time limits under this Article shall commence on the date of mailing, or if served by commercial delivery service, facsimile machine, or e-mail on the date sent. In addition, the Employer will provide a copy electronically of all grievance answers.

D. Any time limits established for receipt of correspondence shall be extended by five (5) working days, unless delivered in person or by electronic means.

Section 9

Telephonic or video teleconference presentations/representations will be used to the maximum extent possible.

Section 10

At the option of the AALJ, a grievance shall be stayed after the Step Three grievance answer is issued if the following two conditions are met:

A. The Employer has refused to provide information requested under 5 U.S.C. §7114(b)(4) in connection with the grievance; and

B. The AALJ has filed a ULP for failure to provide the requested information within twenty-five (25) workdays after receipt of the Step Three answer, or if no answer is issued, within twenty-five (25) workdays from the date the Step Three grievance answer was due.

This stay shall remain in effect until thirty-five (35) workdays after resolution of the unfair labor practice charge or thirty-five (35) workdays from the date of receipt of the information.

Section 11

Following the issuance of the final step answer, all further official communication and/or correspondence concerning the grievance shall be between appropriate management officials and the National Grievance Chair of the AALJ or his or her designee.

ARTICLE 11

ARBITRATION PROCEDURES

Section 1

A. If the answer at the final step of the grievance procedure does not resolve the grievance, only the AALJ or the Employer may refer the grievance to arbitration by mailing or otherwise transmitting written notice to the other Party within thirty (30) working days after receipt of the last answer. If the Employer fails to issue an answer at the last step of the grievance procedure, or fails to deliver the answer to the AALJ, the AALJ may invoke arbitration without regard to the time limits contained herein, and the Employer may not raise lack of timeliness as a bar to arbitration.

B. Upon referral of a grievance to arbitration, the AALJ or the Employer may request the Federal Mediation and Conciliation Service (FMCS) to submit a list of five (5) arbitrators having federal sector experience. The Party requesting the list of arbitrators shall pay the fee charged by the FMCS for production of the list. Within eleven (11) working days following receipt of the FMCS list, the Parties will consult in an attempt to mutually agree upon an arbitrator from that list. The Parties may also mutually agree to ask for an alternate or second list from FMCS to be paid for by the requesting Party. If the Parties cannot agree upon one of the arbitrators, they shall alternately cross off one name at a time until one arbitrator remains who shall then be the arbitrator selected by the Parties. This striking process shall be completed by the eleventh (11^{th}) working day. The obligation to be the first to cross off the name of an arbitrator shall be determined by coin toss; the Party losing the coin toss shall strike first. If the invoking Party does not request a list of arbitrators from the FMCS within thirty (30) calendar days of invocation, the invocation of the arbitration is considered withdrawn.

C. To the extent available, these arbitrators will be from the local work site metropolitan area for grievances arising at that level, or the metropolitan area of the regional office for grievances arising at the regional level, or the Washington, D.C., metropolitan area for grievances arising at the national level. To the extent possible, arbitration will be held in hearing offices, regional offices, or ODAR headquarters in the location where the grievance was filed. If holding the arbitration in a hearing office, regional office, or ODAR headquarters is precluded by business necessity, other federal government controlled property at or near the city where the grievance was filed may be used if the Parties mutually agree to use the same. The Parties may agree to hold the arbitration elsewhere.

Section 2

The Parties may mutually agree to consolidate grievances containing substantially common issues of law or fact. The Parties will endeavor to accomplish any mutually agreed upon consolidation five (5) days after a grievance has been referred to arbitration.

Section 3

The arbitrator will be requested by the Parties to render his or her award as soon as possible, but no later than sixty (60) calendar days after the closing of the record unless the Parties agree otherwise.

Section 4

The arbitrator is bound by applicable law. Further, the arbitrator shall have no authority to alter the terms of this Agreement.

Section 5

The decision of the arbitrator will be final and binding on the Parties, subject to the right of appeal set forth in the Federal Services Labor-Management Relations Statute (FSLMRS).

Section 6

Should either Party refuse to participate in arbitration, the other Party may unilaterally employ an arbitrator and present the case to the arbitrator. The arbitrator will have the authority to render a decision. At least (ten) 10 workdays before an arbitrator is contacted by a Party under this Section, that Party will send written notice to the Party refusing to participate in arbitration of its intention to contact an arbitrator. Payment of the arbitrator under this Section 6 shall be governed by the provisions of Section 7 of this Article.

Section 7

A. The AALJ and the Employer will share the arbitrator's fees and expenses equally, and the cost, if any, of a mutually agreed upon hearing facility if government space is not available.

B. A transcript of the proceedings will be made unless the AALJ and the Employer mutually agree that one is not needed. The cost of the transcript will be shared equally. If one Party does not want to share the cost of a transcript, the other Party can make arrangements to obtain and pay for a transcript and will not be required to provide a copy to the dissenting Party.

C. Judges who are grievants and witnesses in arbitration proceedings will receive a reasonable amount of taxpayer-funded union time to prepare for, to attend, and to travel to and from preparation meetings or hearings in connection with that proceeding. Each Party bears its own costs of travel for preparation meetings.

D. In the event either Party requests the cancellation or postponement of a scheduled arbitration proceeding which causes an arbitrator to impose a cancellation or postponement fee, the Party requesting such cancellation or postponement shall bear the

full cost of the cancellation/postponement fee. In the event one Party requests a postponement and the other Party does not oppose the postponement but does not agree, the requesting Party pays the full cost of the postponement fee if the arbitrator assesses a fee. In the event that the parties mutually agree to settle or postpone the arbitration during the period of time in which the arbitrator will charge a cancellation/postponement fee, the Parties will equally bear the cost of the fee, unless the Parties agree otherwise.

Section 8 – Expedited Arbitration Procedures

This expedited arbitration procedure is for the exclusive purpose of providing prompt, efficient, and effective resolution of a reprimand in two circumstances: 1) a reprimand that prevents a Judge who is currently participating in telework from continuing to participate in telework; or 2) the Judge has a pending reassignment request.

Section 9 – Expedited Invocation

Within ten (10) working days of the Chief Administrative Law Judge's Step Three answer, the AALJ may invoke expedited arbitration. If there is no answer from the Chief Administrative Law Judge, the AALJ may invoke expedited arbitration no later than ten (10) working days after the Chief Judge's answer was due.

Section 10 – Expedited List of Arbitrators

After invocation of arbitration, the moving Party shall request a list of five (5) arbitrators pursuant to Section 1(B) of this Article. Within ten (10) days after receipt of the list of arbitrators, the Parties will either select one of the arbitrators by mutual agreement or, if there is no agreement on the arbitrator, the Parties shall alternatively cross off one name at a time pursuant to Section 1(B) of this Article. The arbitrator will conduct a hearing within ninety (90) calendar days from the date notified of selection. If the arbitrator is not available within the next ninety (90) days, a new list of arbitrators will be requested. Within five (5) days of receipt of the new list of arbitrators, the Parties shall select an arbitrator using the procedures set forth in Section 1(B) of this Article. Upon selection, the new arbitrator will conduct the hearing within ninety (90) days from the date notified of selection or as otherwise agreed to by the Parties.

Section 11 - Expedited Procedures

A. The arbitration hearing shall be held during the regular work hours of the basic workweek in the locality of the hearing office where the grievance arose at a location pursuant to the provisions of Section 1(C) of this Article.

B. There will be no transcript of the hearing.

C. Within fifteen (15) workdays, the arbitrator shall issue a written decision. This decision will be final and binding on both Parties and shall be immediately implemented, but subject to reversal on appeal to the Federal Labor Relations Authority.

D. The arbitrator's fee and expenses of arbitration, including travel and per diem, shall be borne equally by the Parties.

Section 12 – Sunset Provisions

A. Regular Arbitration

In the event the Parties fail to contact, schedule, and participate in the arbitration hearing within eighteen (18) months of the date of invocation, the grievance will be dismissed with prejudice. This provision will not be applicable if the Employer requests a postponement after the hearing is scheduled or the arbitrator informs the Parties that he or she is unavailable after the matter is scheduled.

B. Expedited Arbitration

In the event the Parties fail to contact, schedule, and participate in the expedited arbitration hearing within one (1) year of the date of invocation, the grievance will be dismissed with prejudice. This provision will not be applicable if the Employer requests a postponement after the hearing is scheduled or the arbitrator informs the Parties that he or she is unavailable after the matter is scheduled.

C. Cooperation

The Parties will cooperate in agreeing upon arbitration dates in an effort to resolve the dispute expeditiously.

Section 13

All time limits in this Article may be extended by written mutual agreement of the Parties.

ARTICLE 12

DUES WITHHOLDING AND CHECK-OFF

Section 1

This Article is for the purpose of permitting eligible Judges who are members of the AALJ to pay dues through the authorization of voluntary allotments from their compensation. This Article covers all eligible Judges:

A. Who are members in good standing in the AALJ;

B. Who have voluntarily completed Standard Form 1187 (SF-1187), or its equivalent, Request for Payroll Deduction for Labor Organization Dues; and

C. Who receive compensation sufficient to cover the total amount of the allotment.

Section 2 – Dues Withholding and Check-off

The AALJ agrees to:

A. Inform and educate Judges of the voluntary nature of the system for the allotment of labor organization dues, including conditions under which the allotment may be revoked.

B. Purchase and distribute to Judges SF-1187s or its equivalent.

C. Complete Section A of SF-1187, or its equivalent, and keep Office of Labor-Management and Employee Relations (OLMER) or other subsequently designated servicing office informed of any changes in this information:

1. Forward properly executed and certified SF-1187, or its equivalent, to OLMER or other subsequently designated servicing office on a timely basis (signed and dated by an authorized AALJ official).

2. Inform the OLMER or other subsequently designated servicing office of the name of any Judge who has been expelled or ceases to be a member in good standing in the AALJ within fifteen (15) days of the date of the final determination.

3. Inform the OLMER or other subsequently designated servicing office of any change in the schedule of membership dues.

4. The AALJ President shall provide in writing to the OLMER or other subsequently designated servicing office the name and title of the AALJ officials authorized to complete Section A of the completed SF-1187, or its equivalent, and shall inform the

OLMER or other subsequently designated servicing office, in writing, when such officials are changed.

Section 3

The Employer agrees:

A. To deduct and process voluntary allotments of dues in accordance with this Agreement.

B. To withhold authorized dues on a biweekly basis at no cost to the AALJ or the Judge.

C. Upon receipt of a properly certified SF-1187, or its equivalent, to date stamp the form and prepare SSA Form 610 for transmittal within the pay period of its receipt.

D. To notify the Judge and the AALJ President, Secretary, and Treasurer when a Judge is not eligible to enroll in the automatic dues withholding program because he or she is not included under the recognition clause in the appropriate exclusively recognized bargaining unit upon which the agreement is based.

E. To withhold new amounts of dues upon certification from the AALJ President so long as the amount has not been changed during the past twelve (12) months; provided, however, changes in withholding may be more frequent than once every twelve (12) months when changes in a member's salary is attributable to cost of living adjustments (COLAs).

F. To prepare remittances and reports as follows:

1. Transmit to the AALJ President, Secretary, and Treasurer the total amount deducted for all Judges and total amount remitted to the AALJ.

2. Remit collected amounts to the institution designated by the Association of Administrative Law Judges.

3. Provide the AALJ President, Secretary, and Treasurer with the withholding reports.

4. A monthly report shall be provided to the AALJ President, Secretary, and Treasurer with the following information:

a. The Judges' names in alphabetical order by last name;

b. Amount withheld;

c. Separated Judges;

d. New allotments;

e. Revocations of Judges' dues withholding;

f. No deductions because the Judges' compensation was insufficient to permit a deduction; and

g. Automatic pay adjustment.

5. The Employer will provide the AALJ President, Secretary, and Treasurer on a monthly basis the names of newly appointed HOCALJs and the names of the Judges that have vacated the HOCALJ position.

G. The Employer has the discretion to automate the processes described in this Article and will provide notice and bargain to the extent required by 5 U.S.C. Chapter 71.

Section 4

The effective dates for actions under this Agreement are as follows:

A. Dues shall be withheld beginning the first full withholding pay period after the date of acceptance of Form 610 or its equivalent.

B. Any change in the amount of dues to be withheld shall begin with the first full pay period designated by the AALJ President in a notice provided to the Employer. This notice shall be provided no less than thirty (30) days prior to the designated pay period.

C. Termination due to loss of membership in good standing shall begin the first pay period following loss of recognition in good standing.

D. Termination due to separation or movement outside of bargaining unit shall occur as follows:

1. If action is effective on first day of pay period, termination allotment will be at the end of the preceding pay period or after receipt of notification.

2. If action is effective on other than first day of pay period, termination of allotment will automatically be at the end of such pay period.

Section 5 – Revocation by Judge

It is the responsibility of the Judge to notify the OLMER or other subsequently designated servicing office, in writing, when the Judge is reassigned, promoted or transferred out of the bargaining unit and the Employer will notify the payroll provider. Requests for revocation of dues allotments may be submitted at any time. A Judge must be given the opportunity to revoke his or her authorization for dues withholding at least once every twelve (12) months. All requests received prior to March 1 shall be effective on the first full pay period on or after March 1.

Requests received after March 1 shall be held until the following March 1. To effect a revocation, a Judge must submit a properly completed SF-1188 or its equivalent or a written request containing the Judge's name, Social Security Number, timekeeper number, and work location to the OLMER or other designated servicing office.

SOCIAL SECURITY

Office of Disability Adjudication and Review

September 2, 2010

LETTER OF INTENT

To: Mark A. Brown, Chief Negotiator
IFPTE, AFL-CIO & CLC

Re: Political Action Committee Allotments

It is the intent of the Employer during the term of the new IFPTE Collective Bargaining Agreement to continue to follow the procedures for voluntary allotments to the AALJ Political Action Committee as contained in the letter from former Commissioner for Social Security Joanne Barnhart dated January 12, 2007.

Signed: Kathleen McGraw
K. McGraw, Management Chief Negotiator

OFFICE OF DISABILITY ADJUDICATION AND REVIEW

ARTICLE 13

JUDICIAL FUNCTION
IN THE OFFICE OF DISABILITY ADJUDICATION AND REVIEW

Judges play a vital role in the accomplishment of the ODAR mission and make a significant contribution to the mission of issuing hearing decisions that are timely and correct determinations by the Commissioner of the Social Security Administration. In making hearing decisions, a Judge may determine when a case is ready to be scheduled for a hearing, conduct a full and fair hearing when required, and must issue a legally sufficient decision. The ODAR has the authority to provide necessary support staff for the Judges.

ARTICLE 14

HOURS OF WORK, FIXED TOURS, FLEXTIME, FLEXIBLE WORK ARRANGEMENTS, CREDIT HOURS, AND TRAVEL COMPENSATORY TIME

Section 1 – Definitions

A. Basic Work Requirement. The number of hours which a Judge is required to work or is required to account for by leave or otherwise. For full-time Judges, the basic work requirement is eighty (80) hours per biweekly pay period.

B. Basic Work Week. Monday through Friday.

C. Core Hours. The time periods during the workday that are within the tour of duty during which a Judge must be present for work.

D. Core Time Deviation. An absence during the core time that is made up within the same day, during the flexible time without a charge to leave.

E. Credit Hours. Any hours within a flexible schedule established under 5 U.S.C. §6122, which are in excess of a Judge's basic work requirement and which the Judge elects to work so as to vary the length of a workweek or a workday.

F. Flexible Time Band. That portion of the workday during which a Judge using flextime has the option to select and/or vary starting or quitting times within the limits established in this Article.

G. Fixed Schedule. A schedule of duty that requires the Judge to work the established hours of 8:00 a.m. to 4:30 p.m. for the 8-hour tour; 8 a.m. to 5:30 p.m. for the 9-hour tour; and 7:30 a.m. to 6:00 p.m. for the 10-hour tour.

H. Flexible Work Arrangement. In the case of a full-time Judge, an eighty-hour (80-hour) biweekly basic work requirement that is scheduled for less than ten (10) workdays. For full-time Judges, a Flexible Work Arrangement is a 5-4/9 or a 4/10 schedule as described in Section 3 below.

I. Flexible Work Schedule. A work schedule established under 5 U.S.C. §6122 that, in the case of a full-time Judge, has an eighty-hour (80-hour) biweekly basic work requirement that allows a Judge to determine his or her own schedule within the limits established by this agreement.

J. Flextime or Flexible Schedule. A system of work scheduling which splits the workday into two (2) distinct kinds of time: core hours and flexible time band. The two (2) requirements under a flextime schedule are:

1. The Judge must be at work during the core hours except for core time deviations unless leave or credit hours are used; and

2. The Judge must account for the total number of hours he or she is scheduled to work each day.

K. Travel Compensatory Time.

1. In accordance with applicable government-wide regulations, travel compensatory time is time earned by a Judge for time spent in travel status away from the official duty station when such time is otherwise not compensable.

2. Travel compensatory time must be used within one (1) year of accrual.

Section 2 – Flextime Schedule

All Judges shall be permitted to work a flextime schedule that permits him or her to vary his or her daily starting and leaving times. This schedule shall be in accordance with the following rules:

A. All Judges must be on duty status during established core hours, except for lunch periods and core time deviations. Such core hours shall be from 9:30 a.m. to 3:00 p.m. Monday through Friday. The basic work requirement can only be completed Monday through Friday.

B. Judges can start as early as 6:30 a.m. and leave as late as 6:00 p.m.

C. Judges electing to work a flextime schedule will continue to sign-in at the beginning of their workday, sign-out at the end of their workday at their official duty station, and record any core time deviations in the appropriate blocks on the serial sign-in/sign-out sheet. Judges' serial sign-in/sign-out sheets will be separate from the sign-in sheets used by other hearing office employees. Current policy regarding signing in and out of an office is not changed by this agreement. Judges are responsible for working their scheduled workday of eight (8), nine (9) or ten (10) hours.

D. A lunch break cannot be combined with a core time deviation absence within two (2) hours of the beginning or end of a Judge's workday. Core time deviations must be recorded in the appropriate block on the Form SSA-30.

E. Temporary Suspension of Flextime Schedule:

1. Judges who are scheduled to attend training may have to conform to the working hours in effect for the training.

2. Occasions may arise when a flextime schedule must be temporarily suspended, e.g., military leave, jury duty, training, operational needs (office delays/closures, weather, natural disasters, or power outages). In these situations, Judges will revert to the established fixed tour.

Section 3 – Flexible 5-4/9 and Flexible 4/10 Work Arrangements (FWA)

Two (2) Flexible Work Arrangements (5-4/9 and 4/10) shall be implemented.

A. 5-4/9 Flexible Work Arrangement

Judges have the option of electing to supplement their flextime schedule with a 5-4/9 FWA. The 5-4/9 FWA shall be in accordance with the following:

1. Judges work eight (8) nine-hour (9-hour) days, and one (1) eight-hour (8-hour) day. The tenth (10th) shall be a non-workday. If a holiday falls on a regular workday, that is the Judge's holiday. If a holiday falls on any day, other than Sunday, the day of the "in-lieu-of" holiday is the preceding workday. If the holiday falls on Sunday, the next workday is the "in-lieu-of" holiday. Judges are entitled to eight (8) hours pay on a holiday.

2. Holidays that fall on a Judge's nine-hour (9-hour) day require the Judge to use one (1) hour of leave, credit hours earned, or compensatory travel time earned to account for the holiday period. To avoid charge to leave, the Judge will be permitted to move his or her eight-hour (8-hour) day to the holiday.

3. Starting and leaving times are determined by Section 2.

4. Judges working a flexible 5-4/9 arrangement may not work credit hours or telework.

B. 4/10 Flexible Work Arrangement

Judges have the option of electing to supplement their flextime schedule with a 4/10 FWA. The 4/10 FWA shall be in accordance with the following:

1. Judges work four (4) ten-hour (10-hour) days per week. The fifth (5th) day shall be a non-workday. If a holiday falls on a regular workday that is the Judge's holiday. If a holiday falls on any day, other than Sunday, the day of the "in-lieu-of" holiday is the preceding workday. If the holiday falls on Sunday, the next workday is the "in-lieu-of" holiday. Judges are entitled to eight (8) hours pay on a holiday.

2. Holidays that fall on a Judge's ten-hour (10-hour) day require the Judge to use two (2) hours of leave, or credit hours earned, or compensatory travel time earned to account for the holiday period.

3. Starting and leaving times are determined by Section 2.

4. Judges working a flexible 4/10 arrangement may not work credit hours or telework.

C. Temporary Suspension of FWA

1. Judges who are scheduled to attend training may have to conform to the working hours in effect for the training.

2. Occasions may arise when the 5-4/9 FWA or 4/10 FWA must be temporarily suspended, e.g., hearing trips, military leave, jury duty, training, or operational needs (office delays/closures, weather, natural disasters, power outages). In these situations, Judges will revert to the established fixed tour.

3. If a Judge's flexible work arrangement is suspended, it will automatically be restored as soon as possible after the reason for the suspension needs have been met, i.e., the next pay period.

D. Judges have the option of selecting their day off. However, except in a one-Judge office, no more than fifty (50) percent of the Judges, plus one (1), in an office may be off on the same day, without approval of the HOCALJ or Acting HOCALJ. Conflicts regarding a Judge's election of days off will be resolved using the standard set forth in Article 22, Seniority. A Judge's selection of a day off will remain in effect unless the Judge requests a change. Any change requested must be consistent with this Article. Judges may temporarily substitute their day off, within a pay period, when required by hearing and/or travel schedules with written notice to the HOCALJ. In addition, Judges may temporarily substitute the day off for other reasons on an infrequent basis, with approval of the HOCALJ and the same shall not be unreasonably denied.

E. Judges may withdraw from FWA or choose a different FWA option by notifying the HOCALJ or Acting HOCALJ in writing two (2) weeks in advance of the pay period in which the change becomes effective. A Judge who elects a different FWA option may not change the schedule again within the next two (2) pay periods, except to withdraw from the FWA. A Judge who withdraws from FWA may not re-enter FWA again for two (2) pay periods.

F. Delayed Opening. When the opening of the office is delayed for any reason, the office hours will be 8:00 a.m. to 4:30 p.m. for the eight-hour (8-hour) tour; 8 a.m. to 5:30 p.m. for the nine-hour (9-hour) tour; and 7:30 a.m. to 6:00 p.m. for the ten-hour (10-hour) tour. If the announcement of the late opening is made too late to effectively cancel flextime for

all Judges, a Judge who reports to work will be permitted to leave after completing their daily tour of duty, unless leave is requested and approved. Provided, however, if a Judge reports early enough, as described above, he or she can earn credit hours for the time worked in excess of the normal workday, or may leave once he or she has completed a normal workday.

G. Judges electing a FWA will continue to sign-in at the beginning of their workday and sign-out at the end of their workday at their official duty station. Current policy regarding signing in and out of an office is not changed by this agreement. Judges' serial sign-in/sign-out sheets will be separate from the sign-in sheets used by other hearing office employees.

Section 4 – Credit Hours

Consistent with 5 U.S.C. §5547, the Parties acknowledge that a Judge cannot work overtime or earn compensatory time, except for religious compensatory time and travel compensatory time. Credit hours are available to give credit for work performed by a Judge in excess of his or her basic work requirement.

A. Procedures

1. A Judge can earn up to three (3) credit hours per workday, Monday through Friday.

2. A Judge can earn up to eight (8) credit hours on a non-regular work day, excluding holidays (5 U.S.C. §6103) as follows:

    a. A Judge can earn no more than a total of eight (8) credit hours on non-regular work days in any calendar week; and

    b. One of the following conditions apply:

        i. Other hearing office employees are working in the hearing office on the non-regular work day;

        ii. When utilities (including heat and air conditioning) are normally available in the hearing office on non-regular workdays regardless of whether other hearing office employees are working in the hearing office; or

        iii. With the concurrence of his/her HOCALJ or Judge designee a Judge may work credit hours in the hearing office on a non-regular workday, excluding holidays.

c. Credit hours may be earned between the hours of 6:30 a.m. and 6:00 p.m. on a non-regular work day, excluding holidays, consistent with Section 4(A)(2)(b)(i-iii).

3. A Judge may earn credit hours when working at a temporary duty station in travel status. When a Judge on FWA is required due to a hearing trip to revert to a regular 5/8 (five eight-hour days) schedule for an entire pay period, the Judge may earn credit hours at the temporary duty station (including weekends, subject to the maximum of earning no more than 8 credit hours on non-regular work days in any calendar week).

4. A Judge may earn credit hours when working at his/her Alternate Duty Station in accordance with the terms of this Agreement for Telework.

5. A Judge may earn no more than thirty-three (33) credit hours per pay period.

6. Credit hours may be earned in one-quarter (1/4) hour increments.

7. The maximum number of credit hours a Judge may carry over from one (1) pay period to the next is twenty-four (24).

8. Use of earned credit hours will be requested by submitting a form SSA-71 or electronic equivalent. The Judge will check the block to the left of "Other" and write out credit hours to the right of "Specify."

9. Accrued credit hours may be used alone or in combination with annual leave, sick leave, when appropriate, or compensatory time for travel if approved by management. A Judge may use all or any of his or her accumulated credit hours in a single pay period.

10. Accrued credit hours may be used by a Judge in the same manner as any leave.

11. Judges will provide annual written notice to the HOCALJ or Acting HOCALJ of the Judge's request to work credit hours. The Parties acknowledge that given the Employer's current workload, appropriate work is typically available for credit hours work. In the event a HOCALJ or Acting HOCALJ makes a reasonable and good faith determination that work appropriate for credit hours is not available for Judges assigned to the hearing office, the HOCALJ or Acting HOCALJ will so notify the hearing office Judges in writing regarding the basis for, and duration of that determination.

12. Starting and leaving times are determined by Section 2 above.

13. Judges electing to earn credit hours will continue to sign-in at the beginning of their workday and sign-out at the end of their workday at their official duty station. Judges' serial sign-in/sign-out sheets will be separate from the sign-in

sheets used by other hearing office employees. Credit hours earned on a daily basis will be recorded in block 14 of the SSA-30.

Section 5

Flextime, Flexible Work Arrangements and the right to earn and use Credit Hours shall not be curtailed or denied in lieu of discipline.

Section 6 – Office Access Outside the Flexible Band

A Judge may access the hearing office from 5:00 a.m. to 10:00 p.m., Sunday through Saturday, to perform any functions that a Judge could perform during regular business hours. This provision does not impact the flexible band of 6:30 a.m. to 6:00 p.m. Credit hours may only be earned as defined in Section 4.

If a Judge wishes to access the office when no other employees are present between 5:00 a.m. to 10:00 p.m. the following conditions must be met:

1. The Judge has requested to be Office-in-Charge (OIC) and has completed the Employer's OIC training;

2. There is no expectation that utilities are available. Judges shall be permitted access to offices from 5:00 am to 10:00 pm Sunday through Saturday (but not during Federal holidays) regardless of the availability of temperature controls during those time periods. Computer access shall be available except when repairs or system-wide downloads are taking place during non-work days or taking place outside the flexible band period. In cases of system-wide downloads or in the event of scheduled repairs, advance e-mail notice shall be provided to Judges as soon as possible. During office access outside the flexible bands, in the event of a computer break down, the Employer will not be required to make repairs until regular office hours resume.

Section 7

All Judges will be expected to use time recording equipment or sign-in and sign-out each day using the SSA Serial Time and Attendance Roster (Form SSA-30), subject to any negotiations pursuant to 5 U.S.C. 71 if the Employer proposes changing to an electronic equivalent for the Form SSA-30. All Judges will use the applicable system in order of their arrival and departure.

ARTICLE 15

TELEWORK

Section 1 – Purpose

The purpose of this Article is to establish a uniform Telework Program that permits Judges to perform work at an Employer-approved alternate duty station (ADS). This Telework Program replaces all other Flexiplace and/or Telework Programs instituted by the Employer. Teleworking is not a right, but is a benefit that expands work options for Judges for whom this type of arrangement is appropriate.

Section 2 – Definitions

A. Alternate Duty Station (ADS) – an Employer-approved work site other than the Judge's Permanent Duty Station (PDS). Specifically:

   A Judge's home geographically convenient to the PDS or other Employer-approved work sites geographically convenient to the Judge's PDS. The Telework Program Agreement will reflect the Judge's home address.

B. Permanent Duty Station (PDS) – the official worksite as designated by Employer.

C. Telework Program Request Form – a written application for participation in the Telework Program in which the Judge describes the general and specific work assignments that the Judge proposes to perform at the ADS.

D. Telework Program Agreement – a written agreement between the HOCALJ and the Judge defining the Judge's obligations and responsibilities under the Telework Program.

E. Portable Work – work that is normally performed at the Judge's PDS that the Employer determines can be performed at the ADS with equal effectiveness with respect to quality, quantity, timeliness, public service and other aspects of mission accomplishment. Judges may not conduct hearings or hold face-to-face pre-hearing or post-hearing conferences at the ADS. A Judge's ADS work includes, but is not limited to, File Review, Hearing Preparation, Decision Making, Decision Instruction Preparation, Decision Drafting, Decision Editing, other work on Employer systems to the extent allowed and authorized, and making telephone calls and sending and responding to email. Employer will determine which work is portable.

F. Regular Telework – The Judge teleworks on a recurring basis at an ADS.

G. Unscheduled Telework – Employer has the discretion to authorize "unscheduled telework" on inclement weather workdays. The Office of Personnel Management (OPM) defines unscheduled telework as working from home on non-scheduled telework days.

Judges are not entitled to unscheduled telework days; the approval is solely at the discretion of management.

Section 3 – Eligibility to Participate in Telework

Employer will determine which Judges (including part-time Judges) will be eligible to participate in telework. In general, to be eligible to participate in telework, the Judge must meet all of the following conditions:

1. The Judge has served as an SSA Administrative Law Judge for one year or more, provided that a Judge who transfers from another agency with prior SSA ALJ experience will become eligible after serving as an SSA ALJ for six months;

2. Sign and submit a Telework Program Request Form;

3. Sign and abide by the Employer approved Telework Program Agreement, the terms of which will not be inconsistent with this Agreement, including Article 15;

4. Sign the Self Certification Safety Checklist for Telework Participants;

5. Complete appropriate Employer telework training, consistent with Title 5 U.S.C. § 6503;

6. Not have a recent (within the preceding 12 months) disciplinary action (i.e., reprimand or suspension);

7. Not currently be on sick leave restriction and not have been on sick leave restriction within the preceding 12 months;

8. Not require close supervision, continuous feedback, or face-to-face contact with Employer, coworkers, or the public;

9. Not be in a position, while teleworking, which requires the use of sensitive, Privacy Act, proprietary, or personally identifiable information that the Employer determines cannot be accessed from the ADS with adequate assurance of protection or non-disclosure;

10. Have a sufficient amount of portable work, to be completed at the ADS;

11. Not unduly delay the work of the Judge;

12. Use Employer-approved technology to perform the work;

13. Not be excluded from participation by law, rule, or government-wide regulation;

14. Judges electing to participate in a 5-4/9 or 4/10 work schedule or fixed tour are not eligible to telework.

Section 4 – Additional Provision Regarding Telework Participation

A. If a Judge moves to a new hearing office, the Judge may request to participate in the Telework Program during the next request period.

B. Consistent with the Settlement Agreement effective October 9, 2015, Judges must use the Employer's Virtual Private Network (VPN) software on their device for all Telework days.

Section 5 – Requesting Approval to Participate in Telework

A. Judges desiring to work telework for the period April through September must submit a written Telework Work Request to their HOCALJ in February; Judges desiring to participate in telework for the period October through March must submit a written Telework Work Request to the HOCALJ in August. Unless cancelled in writing, a written Telework Work Request (including requests to work Telework that are in effect as of the effective date of this Agreement) will be deemed continuing in nature from one period to successive periods. Judges should include any preferred telework day(s) with their request. If approved, Judges may begin telework in April or October.

B. Judges with bona fide emergency needs, as determined by the HOCALJ, may request participation in telework outside the normal request times. If approved by the HOCALJ, Judges may begin participating in telework at the start of the next appropriate pay period.

C. Number of Days for Regular Telework – If all other conditions for eligibility are met, Judges may elect to work on telework up to eight (8) calendar days of their own choosing per month from among the days left after hearings have been scheduled. Additional days may be worked on telework with the approval of the HOCALJ. No more than three (3) consecutive days may be worked at the ADS without HOCALJ approval; provided, however, that if a Judge has scheduled five days of hearings in the week immediately before the week in which ADS is worked, up to five (5) consecutive days may be worked at the ADS without HOCALJ approval. No more than sixty percent (60%) of the Judges in an office may telework on the same day, unless the HOCALJ authorizes a greater number of Judges to telework on a particular day. This provision does not apply to non-regular workday ADS credit hours. Saturday and/or Sunday credit hours earned at the ADS are not subject to the sixty percent (60%) cap and do not count towards the eight (8) days referenced in this provision.

Section 6 – Approval or Denial

A. The HOCALJ will approve or deny a Judge's request to participate in telework pursuant to this Article. The availability of appropriate technology/resources is a condition for any management approval. If the HOCALJ denies a Judge's request, the Judge cannot reapply for regular telework until the next open season.

B. The HOCALJ will act on telework participation requests within ten (10) workdays following the end of the request period (i.e., February or August) and note in writing the reasons for any denial.

C. The availability of appropriate technology/resources is a condition for any HOCALJ approval of telework schedules. After the approval of schedules, the HOCALJ will not require Judges to submit additional requests to maintain their schedules unless they desire changes. The HOCALJ will reevaluate existing schedules when reviewing new requests from Judges wishing to participate and current teleworking Judges wishing to make changes to their schedules.

Section 7 – Performing Telework at an ADS

A. Approving an ADS Location

The Employer reserves the right to inspect and approve the ADS prior to approving telework. The Employer will provide advanced notification of the initial inspection. The ADS location may be at home or at another Employer-approved work site.

B. Inspecting an ADS

1. The Judge must complete a Self-Certification Safety Checklist for Telework Participants prior to teleworking. In addition, the Employer reserves the right to inspect the ADS at any time without notice during the Judge's working hours. If the Judge provides justification of unusual or compelling reasons not to hold the inspection, the Employer will reschedule its inspection of the ADS.

2. The Judge will permit the Employer to inspect the ADS during the Judge's regular working hours to ensure proper maintenance of any Government-owned property and conformance with safety and PII standards. If the Judge provides justification of unusual or compelling reasons not to hold the inspection, the Employer will reschedule its inspection of the ADS.

3. The Judge will provide the Employer with the approved ADS address(es) and will not change the ADS location(s) without Employer approval.

C. Information Technology (IT) Equipment

Judges may not use privately-owned devices for telework involving PII or sensitive information.

D. Employer-Owned IT Equipment

1. Subject to availability of resources, Employer will provide appropriate equipment for teleworkers.

2. Equipment owned by the Employer and used by the Judges at the ADS may not be removed from the PDS by the Judge until the day before the telework day and must be returned to the PDS the first workday following the telework day that the Judge works at the PDS.

3. Employer retains ownership and control of any Employer-furnished hardware, software, and data and is responsible for maintaining, providing support, and repairing the equipment whether used in an Employer office environment or the Judge's approved ADS site(s).

4. Employer reserves the right to monitor a Judge's telework activity using systems tools.

E. Support for Employer-Owned Devices

1. If teleworking Judges will be using Employer-configured laptops or other IT devices, Employer will provide service, maintenance, and installation of up-to-date anti-virus software and other important software updates. This will ensure the protection of work-related documents against malicious software and other security vulnerabilities that can compromise the security of data.

2. PDS or local IT support personnel will resolve most IT support problems by phone or remote control of the Employer-provided device. When an issue cannot be resolved remotely, Employer may direct the Judge to bring Employer-provided devices to the PDS.

3. There will be no onsite IT support provided at the ADS.

F. Working Area

1. If the ADS is located in the Judge's home, it is the responsibility of the Judge to set up and support a home office and associated home office requirements such as telecommunications and associated supplies. In addition, the Judge is required to:

   a. Have and maintain a broadband connection (high speed internet) at the Judge's own expense, when necessary;

   b. Furnish and maintain all equipment (e.g., desk, chair, surge protector, locking file cabinet or similar secure storage device, etc.) deemed necessary by Employer to perform work at the ADS; and

   c. Have and maintain the ADS work site with adequate workspace, proper lighting, power, other utilities, adequate environmental conditions, a readily

accessible working fire extinguisher and working smoke detector. Unless the Judge uses a government-maintained ADS, the Judge must be able to maintain the ADS. For example, the Judge would not maintain a coffee shop or library, so these are not acceptable ADS locations.

2. The designated work area/work site at the ADS must be adequate for the performance of the Judge's official duties and free of hazards.

G. Working Hours

With the exception of teleworking Judges performing taxpayer-funded union time, teleworking Judges are considered to be in duty status.

1. Hours of Work

Judges will be accessible to other Employer employees during the hours of 8 a.m. to 4:30 p.m. unless other hours are specified by the Judge in the approved ADS schedule in accordance with the flexible band established in Article 14. In such cases, the Judge will notify the HOCALJ or Judge designee of the full duty day during which official duties will be performed at the ADS and the Judge will be accessible to other Employer employees during those duty hours.

2. Core Hours

Core hours are hours that employees must work whether the Judge performs that work at an ADS or PDS. Core hours are set forth in Article 14.

3. Leave

Judges performing work at the ADS are subject to the same leave requesting and approval procedures as at their PDS.

4. Credit Hours

Judges can earn up to three (3) credit hours per day at the ADS on regular workdays, as long as they are earned during the normal flexible time band of 6:30 a.m. to 6 p.m. Judges can earn up to eight (8) credit hours per week on either Sunday or Saturday of the same week. These eight (8) hours can be earned on weekends either all on one day of the same week, or can be split between Sunday and Saturday of the same week, as long as they do not exceed eight (8) weekend hours for that same week (Sunday-Saturday calendar week).

5. Religious Compensatory Time

Judges cannot earn Religious Compensatory Time at the ADS.

H. Time and Attendance

1. Sign-in/out – Judges will use a Form SSA-30 or electronic equivalent to record their sign-in and sign-out times. If a Form SSA-30 is used it will be returned to the HOCALJ or designated timekeeper upon their return to the PDS.

2. Early Dismissal/Late Opening – If there is an early dismissal or late opening at the PDS and a Judge is working at the Judge's ADS, then the Judge is required to work at the ADS for the full eight-hour (8-hour) workday or take appropriate leave. However, if the ADS is located in another SSA facility, the Judge must abide by the early dismissal/late opening rules for that facility.

3. Alternate Duty Station Problems – In situations where the ADS is incapacitated but the PDS is unaffected, depending upon the length or likely length of incapacitation, the Judge may be required to report to the PDS or request leave for the lost hours. The HOCALJ will decide the matter in consultation with the Judge.

4. Office Closure – A Judge whose PDS is closed for the day, when the Judge is working at the Judge's ADS, is required to work at the ADS for the Judge's full eight-hour (8-hour) workday unless the Judge takes appropriate leave. If the ADS is in another SSA facility, the Judge must abide by the office closure rules for that facility.

5. Split Days at the ADS and PDS – A Judge may not split the telework day between the ADS and the PDS, unless the HOCALJ approves the Judge to do so.

I. Performing Duties at the ADS

1. Telework refers to a work flexibility arrangement under which a Judge performs the duties and responsibilities of the Judge's position, and other authorized activities, from an approved worksite other than the PDS.

2. Judges will not engage in any non-governmental activities while in official duty status at the ADS. This includes caring for a child, providing eldercare, overseeing or conducting home repairs, and other personal activities. If dependent care is an issue, Employer may require evidence of "other care" during the time the Judge is performing telework at an ADS.

3. Judges will abide by the Employer's policy on personal use of government equipment.

4. When working at the ADS, Judges must be accessible by telephone to their HOCALJ, hearing office management and support staff, and all other Employer employees during working hours. While at the ADS, Judges are responsible for retrieving and responding in a timely manner to voicemail left at the PDS. The

Employer may require that the employee enable a pre-programmed e-mail reply (e.g., "Out of Office Assistant") to be sent in response to all incoming e-mail on the day(s) that the employee is working at the ADS.

5. Judges working telework will promptly inform the HOCALJ or designee whenever problems arise that adversely affect their ability to perform work at the ADS, such as power outages, internet interruptions, and similar events.

J. Standards of Conduct

While working at the ADS, a Judge must adhere to the Standards of Ethical Conduct and all Employer policies applicable when the Judge is working at the PDS.

K. Security/Safeguarding Work

1. All Employer policies and guidelines on safeguarding information, e.g., PII, Privacy Act, Federal Information Security Management Act, and other policies and guidelines relating to the safeguarding of information, apply to Judges working at the ADS.

2. A Judge working telework will follow Employer guidelines and procedures regarding the security and safeguarding of PII when removing official records from the PDS. The Judge will ensure all official records and information, including electronic records, in the Judge's possession are safeguarded and protected from theft and damage. The Judge will ensure that all records are properly disposed of when no longer needed in accordance with those Employer policies applicable to the disposal of records at the PDS.

3. In addition, the Judge will ensure the protection of these records and information from unauthorized disclosure in accordance with the Privacy Act and other Employer policies applicable to the disclosure of records at the PDS.

4. If handwritten notes generated by the Judge relating to a case are removed from the office for telework and the notes contain PII, the Judge must provide a PII log and report.

5. Effective October 1, 2016, Judges will not be permitted to leave the hearing office with paper cases for telework. In the interim, if a paper case is removed from the office for telework, the Judge must provide a PII log and report.

L. Accountability

1. Employer requires Judges on telework to submit a written daily account of the work Judges will perform at the ADS. This daily account log will be similar to the log-form in the Parties' expired 2001 CBA.

2. Official duties performed at the ADS will be performed with the quality, consistency, and in the same manner as performed at the PDS.

3. Judges will schedule hearing days prior to selecting the days on which they telework. Selection of telework days will be made consistent with this Agreement and the Telework Act. If, the Employer determines that a Judge has not scheduled a reasonably attainable number of cases for hearing, then after advising the Judge of that determination and further advising the Judge that his or her ability to telework may be restricted, the Employer may limit the ability of the Judge to telework until a reasonably attainable number of cases are scheduled. The Parties agree that any dispute as to whether the Employer has properly restricted the ability to telework under this paragraph is to be resolved pursuant to the negotiated grievance and arbitration procedures.

4. The Telework Act recognizes that telework may not diminish employee performance or Employer operations. If: a) a Judge has one or more seriously delinquent cases in status controlled by a Judge (ARPR, ALPO, EDIT, and/or SIGN) and b) has also been advised of that situation and of the fact that a failure to correct the matter may lead to a restriction of his or her ability to telework until the matter is resolved, and c) the Judge has not corrected the matter in the period consisting of the Judge's next fifteen working days, then the Employer may restrict the ability of the Judge to telework until the matter has been resolved and also direct that the Judge report to the office on a previously scheduled telework day(s) to work on those cases and move them into the next status. The Parties agree that any dispute as to whether the Employer has properly restricted the ability to telework under this paragraph is to be resolved pursuant to the negotiated grievance and arbitration procedures.

M. Safety

If the ADS is not an SSA facility, the Judge will complete and sign the Self-Certification Safety Checklist for Telework Participants.

N. Workers' Compensation

Workers' compensation for injuries sustained while performing official duties at the ADS covers teleworkers in accordance with laws, rules, regulations, and Employer's policy and procedures.

O. Federal Tort Claims Act and the Military Personnel and Civilian Employees Claims Act

The Military Personnel and Civilian Employees Claims Act and the Federal Tort Claims Act cover government employees causing or suffering from work-related injuries and/or damages at the ADS, as appropriate.

P. Costs

If the ADS location is in the Judge's home, the Judge is responsible for all operating costs, home maintenance and any other incidental costs (e.g., utilities, etc.) associated with the use of ADS.

Section 8 – Suspending Telework

Suspension of telework or altered telework days does not (1) constitute a termination of the telework arrangement; or (2) entitle a Judge to a "replacement" or "in lieu of" telework day.

A. Temporary Suspension

The Employer may suspend telework for individual Judges or groups of Judges when it determines operational needs (work that must be performed by a Judge which cannot be otherwise performed at the ADS, and involves work that cannot reasonably be performed on another day, via telephone, or other reasonable alternative methods) demand such action. The Employer reserves the right to suspend the program without notice.

B. Temporarily Switching day(s) at ADS

At the direction of Employer or request of the Judge with Employer's approval, the telework day may temporarily switch to another day. If the temporary switch to another telework day does not impact scheduled hearings or cause the number of Judges on telework on that particular day to exceed sixty percent (60%), the HOCALJ will normally approve the change. Scheduled hearings will include cases in which Notice of Hearing has been sent and hearings where the claimant or representative have agreed to a hearing date, even if a Notice of Hearing has not yet been issued. Except in extraordinary circumstances, cases will not be scheduled more than 120 days out.

C. Call Back During Duty Hours

The Employer may call Judges back to the office from the ADS. Callbacks may occur when Employer determines the Judge is required to report to the Judge's PDS because of operational needs. Judges are required to report to their PDS as soon as possible and no more than two hours after notification.

Section 9 – Removal from Telework

If removed from the program, a Judge may not request participation for a minimum of one year from the date of the Judge's removal.

Reasons for removal *may* include:

1. A Judge fails to adhere to the Telework Work Agreement;

2. A Judge's performance is diminished;

3. A Judge cannot be reached at the ADS;

4. A Judge is placed on sick leave restriction;

5. A Judge is disciplined (i.e., reprimanded or suspended);

6. A Judge violates Employer PII policy;

7. A Judge has been officially disciplined for being absent without permission for more than five (5) days in any calendar year; and/or

8. A Judge has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

Section 10 – Continuity of Operations Plan (COOP), Unscheduled Telework, and Other Emergency Situations

In an emergency, any Judge may be required to report to work or to telework as appropriate. Telework provides a key tool in continuing our vital role in Government in the face of emergencies. Employer will incorporate telework into the COOP, relying on work at the ADS to the maximum extent possible.

ARTICLE 16

TEMPORARY CHANGES IN REGULAR JUDICIAL ASSIGNMENT

Section 1 - Acting Hearing Office Chief Administrative Law Judge (HOCALJ)

Any Judge interested in serving as Acting HOCALJ in his or her hearing office shall advise the HOCALJ in writing. The HOCALJ will give consideration to those so expressing an interest.

Section 2 - Out Of Service Area Dockets

Due to the nature of the unpredictability of workload distribution throughout the Employer's service areas, ODAR will select Judges for out of service area dockets in a fair and equitable manner.

Section 3 - Vacancy in HOCALJ/RCALJ/CALJ/DCALJ Positions

ODAR shall continue its practice of posting notices to all Judges of vacancies in the positions of Hearing Office Chief Administrative Law Judge (HOCALJ), Regional Chief Administrative Law Judge (RCALJ), Chief Administrative Law Judge (CALJ), and Deputy Chief Administrative Law Judge (DCALJ).

ARTICLE 17

MODIFIED WORK SCHEDULES
DUE TO PHYSICAL OR MENTAL IMPAIRMENT

Reasonable Accommodation

A Judge's physical or mental impairment may be an appropriate basis for job restructuring and part-time work or modified work schedules pursuant to the Rehabilitation Act of 1973, as amended (29 U.S.C. §791 et seq.).

Consistent with 29 C.F.R. §1630.2(h), as amended, a physical impairment means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, respiratory (including speech organs), genito-urinary, hemic and lymphatic, skin and endocrine. A mental impairment means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Requests for reasonable accommodation shall be processed in accordance with applicable law and regulation. Approval or denial of a request for a reasonable accommodation shall be made in accordance with law and regulations.

ARTICLE 18

LEAVE

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Section 1 - General Leave Provisions

A. Judges shall earn leave in accordance with applicable statutes and regulations.

B. Judges will submit for approval a completed form SSA-71, or electronic equivalent, in advance of all anticipated leave to permit the orderly scheduling of leave; to avoid leave forfeitures which might otherwise result; and to protect the Judges' right to file for restoration of leave forfeited due to illness or injury or an exigency of public business if all other conditions are met.

C. The Parties acknowledge that hearing dockets are generally scheduled 60 to 90 days in advance. In recognition of that fact, the Judge will coordinate the scheduling of anticipated annual or sick leave requests with his or her hearing calendar. Judges will submit a completed form SSA -71, or electronic equivalent, for such anticipated annual or sick leave together with his or her hearing calendar.

D. Any denial of requested leave shall state the reasons for the denial in writing, and be provided to the Judge at the same time of the denial, or not later than three (3) working days after the submission of the form SSA-71, or electronic equivalent.

E. If the Judge is in the office and the use of leave cannot be anticipated, the Judge should timely submit the form SSA-71, or electronic equivalent for approval in advance of the absence.

F. If the Judge is not in the office and the use of annual or sick leave cannot be anticipated, the request for leave approval shall be called in within one (1) hour after the start of the Judge's normal tour of duty or core-time when flextime is in effect, or as soon as possible thereafter.

    1. Contact will be made with the HOCALJ or Acting HOCALJ. In the event that neither is available, a Judge may utilize voice mail, where it exists, to notify the HOCALJ or Acting HOCALJ of the need for leave. Notification by automated answer/voice mail does not equate to leave approval. In the event the Judge is unable to make the call, any responsible person can make the call for the Judge. If the absence extends beyond the anticipated period, a Judge will inform the HOCALJ or Acting HOCALJ of the situation promptly.

    2. If the Judge's leave status has not been clarified by the close of business, the absence may be charged to an absence without leave category. This will not preclude a later change in leave status for good and sufficient reason. Upon return to the office, the Judge will promptly submit a completed form SSA-71, or electronic equivalent. If the Judge's request to change his or her leave status for the period of absence is denied, the reasons for the denial shall be in writing and must be provided to the Judge at the time of the denial.

3. The Judge will submit a completed form SSA-71, or electronic equivalent, promptly upon his or her return to the hearing office.

G. Leave provided to Judges pursuant to this Article will be charged in fifteen-minute (15-minute) increments.

H. Consistent with this Agreement, law, government-wide regulations and Employer policies governing the use of leave, a Judge may submit form SSA-71, or electronic equivalent, to change previously authorized annual leave to sick leave, administrative leave, credit hours, or leave without pay, and the HOCALJ or Acting HOCALJ approves the request.

I. Denial of leave will not be used as an act of adverse action, discipline or reprisal for engaging in protected activity.

Section 2 - Restored Annual Leave

A. Annual leave that is otherwise accruable but is lost due to an administrative error (i.e., an incorrect computation of leave) over which a Judge has no control shall be restored by the Employer.

B. Annual leave may be restored when illness or injury prevents the use of requested and approved annual leave, and conditions do not allow the leave to be rescheduled. The illness or injury must be fully documented and the scheduled annual leave must have been requested in writing before the start of the third pay period prior to the end of the leave year to be subject to restoration. A written request for restoration of annual leave due to illness or injury must be filed with the Employer within ninety (90) days from the date of recovery from the illness or injury.

C. Annual leave may be restored when an exigency of business causes the use of scheduled leave to be disapproved or prevents the approving of requested leave, and conditions do not allow its rescheduling.

1. "Exigency of Public Business" is an administrative or operational demand, which does not permit the use of annual leave to avoid its forfeiture.

2. The annual leave must have been requested in writing before the start of the third pay period prior to the end of the leave year to be subject to restoration, and the requested/scheduled leave must have been disapproved or canceled by an official with authority to declare an exigency.

3. Declarations of exigencies must be in writing and must be in advance of the actual disapproval of a leave request or cancellation of leave, except for bona fide emergencies that were not known or could not be anticipated.

4. A written request for restoration of annual leave due to an exigency of public business must be filed with the Employer within ninety (90) days from the ending date of the exigency.

Section 3 - Sick Leave

Subsection 1 – Use of Sick Leave – General

Subject to applicable regulations in 5 C.F.R. §630.401 *et seq*., a Judge must be granted sick leave when the Judge:

A. Receives medical, dental, or optical examination or treatment;

B. Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;

C. Provides:

1. Care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment;

2. Care for a family member with a serious health condition; or

3. Care for a family member who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that member's presence in the community because of exposure to a communicable disease.

D. Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;

E. Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or

F. Must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

Subsection 2 - When Medical Certification is Required

A. A Judge will not be required to furnish a medical certificate from a healthcare practitioner to substantiate sick leave, unless the HOCALJ or Acting HOCALJ has a good faith belief that sick leave is not justified or is otherwise required by law, rule, or regulation. In such

cases, the Judge will first be advised in writing of the reasons for requiring a medical certificate to substantiate sick leave.

B. Judges will not be required to furnish a medical certificate on a continuing basis if the Judge suffers from a chronic condition, which does not necessarily require medical treatment although absence from work may be necessary and the Judge has furnished medical certification of the chronic condition within the last twelve (12) months.

C. Judges will not normally be required to reveal the nature of the illness as a condition for approval of the requested sick leave except in order to comply with regulation or in instances where a medical certificate is required.

D. A Judge may be required to furnish a medical certificate to substantiate a request for approval of sick leave when the HOCALJ or Acting HOCALJ has reason to believe that sick leave is not justified. The Judge shall first be advised in a counseling interview, which shall be recorded in the SSA-7B extension file, of the perceived problem and reasons why a medical certificate may be required for future use of sick leave. If the problem continues, the Judge will be advised in writing as to whether an acceptable medical certificate will be required for future use of sick leave. The sick leave usage of all Judges under sick leave restriction will be reviewed at least every six (6) months and a written decision to continue or lift the restrictions made. If the review shows significant improvement, the HOCALJ will lift the restriction.

Subsection 3 – Becoming Sick While at Work

A Judge may only leave the work site for medical treatment at an appropriate health unit when he or she has received the prior approval of the Employer, except in the case of an emergency. A Judge who returns to duty within a reasonable time shall not be charged leave. Should the health unit personnel or the Employer determine that the Judge needs to be sent home, and the Employer releases that Judge, sick leave shall be charged beginning at the time the Judge told the Employer that he or she was unable to continue working.

Subsection 4 – Substitution of Other Leave for Sick Leave

An approved absence, which would otherwise be chargeable to sick leave may be chargeable to annual leave, compensatory time for travel, credit hours, or leave without pay at the request of the Judge provided that the HOCALJ or Acting HOCALJ approves the request.

Subsection 5 – Use of Sick Leave for Family Care and Bereavement Purposes

A. Family Friendly Sick Leave is the use of sick leave for the following purposes:

1. To provide care for a family member as a result of physical or mental illness, injury, pregnancy, or childbirth; receiving medical, dental, or optical examination or treatment; or who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that

member's presence in the community because of exposure to a communicable disease; or

2. To make arrangements necessitated by the death of a family member or attend the funeral of a family member.

B. The definition of "family member" means spouse, and parents thereof; children, including adopted children, and spouses thereof; parents, and spouses thereof; brothers and sisters, and spouses thereof; grandparents and grandchildren, and spouses thereof; domestic partner, and parents thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

C. The total amount of sick leave available for family care and bereavement purposes under Subsection 5(A)(1) and (2) is one hundred four (104) hours per year for employees who satisfy this requirement.

Subsection 6 - Use of Sick Leave for Family Care Involving a Serious Health Condition

A. Family Friendly Sick Leave is sick leave that also may be used for family care involving a serious health condition.

1. Consistent with government-wide rules and regulations a Judge may use a total of up to twelve (12) administrative workweeks (480 hours) of sick leave each year to care for a family member with a serious health condition.

2. Non-Tacking Provision. Judges are not permitted to use one hundred four (104) hours of sick leave for general family care or bereavement purposes plus twelve (12) weeks of sick leave to care for a family member with a serious health condition each year. If an employee previously has used any portion of the one hundred four (104) hours of sick leave for general family care or bereavement purposes in a year, that amount must be subtracted from the 12-week (480 hours) entitlement.

3. The definition of "family member" means spouse, and parents thereof; children, including adopted children, and spouses thereof; parents, and spouses thereof; brothers and sisters, and spouses thereof; grandparents and grandchildren, and spouses thereof; domestic partner, and parents thereof; and any individual related by blood or affinity whose close association with the Judge is the equivalent of a family relationship.

4. The term "serious health condition" is defined in 5 C.F.R. §630.1202.

Subsection 7 - Use of Sick Leave for Adoption Purposes

A. Sick leave may be used for absences related to adopting a child. Uses include appointments with adoption agencies, social workers and attorneys, court proceedings,

required travel, and any other activities necessary to allow the adoption to proceed to include periods during which an adoptive parent is ordered or required by the adoption agency or court to be absent from work to care for the adopted child. Judges shall furnish Employer written notice three months in advance of the need to take sick leave for purposes relating to the adoption of a child. A Judge may also be required to file evidence in support of a request to take sick leave for adoption-related purposes. Such evidence may include copies of orders issued by the Court or statements from an adoption agency. When required by the exigencies of the situation, the Judge may be advanced a maximum of thirty (30) days (240 hours) of sick leave for purposes relating to the adoption of a child.

B. The SSA-71, or electronic equivalent, should be annotated in the remarks section indicating "Adoption."

C. This entitlement to use sick leave for purposes related to the adoption of a child is in addition to any entitlement to unpaid leave for the placement of a child with a Judge for adoption under the Family and Medical Leave Act of 1993.

Section 4 - Family and Medical Leave Act (FMLA)

Subsection 1

A. Consistent with government-wide rules and regulations a Judge may use up to a total of twelve (12) administrative workweeks of unpaid leave during any twelve-month (12-month) period for one or more of the following reasons:

1. The birth of a son or daughter of the Judge and the care of such son or daughter (within one year after birth);

2. The placement of a son or daughter with the Judge for adoption or foster care (within one year after placement);

3. The care of a spouse, son, daughter, or parent of the Judge, if such spouse, son, daughter, or parent has a serious health condition;

4. A serious health condition of the Judge makes the Judge unable to perform any one or more of the essential functions of his or her position; or

5. A qualifying exigency arising out of the Judge's spouse, son, daughter, or parent being a covered military member on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

B. The term "serious health condition" is defined in 5 C.F.R. § 630.1202.

C. Consistent with government-wide rules and regulations a Judge may use up to twenty-six (26) administrative workweeks of unpaid leave during any single twelve-month (12-month) period for the following reason:

1. To provide care for a family member who is a member of the Armed Forces, including the National Guard or Reserves, or a veteran undergoing medical treatment, recuperation, or therapy; is otherwise in an outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness. A veteran must have been a member of the Armed Forces during the five (5) years preceding the date on which the veteran undergoes the medical treatment, recuperation, or therapy.

D. During any single twelve-month (12-month) period, a Judge is entitled to a combined total of twenty-six (26) administrative workweeks of unpaid regular FMLA leave and FMLA leave to care for a covered service member.

E. Leave shall not be taken by a Judge intermittently or on a reduced leave schedule unless the Judge and the Employer agree otherwise.

F. In any case in which the necessity for leave is foreseeable based on an expected birth or placement, the Judge shall provide the Employer with written notice three (3) months before the date the leave is to begin, of the Judge's intention to take leave, except that if the date of the birth or placement requires leave to begin in less than three (3) months, the Judge shall provide such advance written notice as is practicable.

G. Leave under FMLA is unpaid leave (leave without pay). A Judge, however, may elect to substitute annual leave or credit hours for unpaid leave under FMLA. A Judge may substitute sick leave in those situations in which the use of sick leave is permitted and the Judge has not used his or her maximum entitlement to family friendly sick leave for the leave year for unpaid regular FMLA leave. A Judge may substitute up to twenty-six (26) weeks of sick leave during any twelve-month (12-month) period for unpaid FMLA leave to care for a covered service member.

H. A Judge may not retroactively substitute paid leave for leave without pay under FMLA.

Subsection 2

Any Judge who takes FMLA leave pursuant to this Article for the intended purpose of the leave shall be entitled upon return from such leave to be restored by the employing Agency to the position held by the Judge when the leave commenced.

Subsection 3

A. Leave requests for additional time will be considered on an individual basis, and in accordance with the procedures and conditions set forth in this Agreement and applicable regulations.

B. Terms in Section 4 of this Article are defined consistent with the provisions of 5 C.F.R. §630.1202.

Section 5 - Advanced Annual/Sick Leave

Subsection 1

A. A Judge may request advanced annual leave if he or she is eligible to earn annual leave.

B. A Judge may be granted advanced annual leave up to the amount that can be earned by the end of the appointment or the leave year, whichever is sooner.

C. A Judge must repay any leave advanced and not earned at the time of separation, except that no repayment is necessary if the separation is because of the Judge's death or disability retirement, or if a medical certificate is presented that states that the Judge is unable to return to duty.

Subsection 2

A. Judges may be granted advanced sick leave when:

1. They are eligible to earn sick leave;

2. There is no reason to believe they shall not return after having used the leave and they have enough money in their retirement account to reimburse the Employer for the advance should they not return;

3. An acceptable medical certificate supports the request for advanced sick leave; and

4. An advance of sick leave would not otherwise be prohibited by law or regulation.

B. There is no limit on the number of times a Judge may request advanced sick leave. Advanced sick leave, however, may only be granted up to the amount authorized under government-wide rules and regulations, which is one hundred four (104) hours or two hundred forty (240) hours, whichever is applicable under 5 C.F.R. §630.402. Two hundred forty (240) hours is the maximum amount of advanced sick leave a Judge may have to his or her credit at any one time.

C. Each request for advanced sick leave shall be considered by the Employer on its individual merits and in accordance with the criteria described in paragraphs A and B of this Subsection. Any denial of the Judge's request for advanced sick leave shall be in writing with the reason set forth and shall be provided to the Judge at the time of the denial.

Subsection 3

Denial of advanced sick leave shall not be used as an act of adverse action, discipline, or reprisal for engaging in protected activity.

Section 6 - Leave Without Pay (LWOP)

Subsection 1

A. Judges have a right to LWOP in the following circumstances:

    1. When a disabled veteran requests LWOP for medical treatment;

    2. When requested by a reservist or National Guard member for military duties in accordance with appropriate military orders. Judges may request such leave after their military leave has been exhausted (38 U.S.C. §4316(d));

    3. When requested by a Judge who has suffered an incapacitating job-related injury or illness and is waiting adjudication of a claim for employee compensation by the Office of Workers' Compensation Program; or

    4. When a Judge makes a request under the Family and Medical Leave Act and meets the criteria for that program.

B. With the exception of circumstances listed in (A) above, LWOP is not a right that accrues to a Judge. However, nothing precludes a Judge from requesting LWOP for any purpose.

C. Requests for LWOP will be given good faith consideration. If a Judge has exhausted sick leave and benefits under FMLA, then the Judge may request and the Employer will consider approval of LWOP.

D. LWOP may be requested in the same manner for the same purpose as annual leave and sick leave. Denials of written requests for LWOP will be provided to the Judge on the SSA-71 or electronic equivalent.

E. Upon return to duty after a period of approved LWOP, the Employer has decided that it will restore the Judge to an Administrative Law Judge position that the Judge held prior to the leave.

Section 7 - Administrative Leave

Subsection 1 – Voting Leave

When voting polls are not open at least three (3) hours either before or after: (a) a Judge's regular hours of work; or (b) if the Judge is on flextime or on an Alternate Work Schedule (AWS), the earliest or latest possible starting and ending time for the Judge's required duty hours, then he or she shall, upon request, be granted a sufficient amount of administrative leave to vote by the Employer, which shall permit the Judge to report for work up to three (3) hours after the polls open, or leave work up to three (3) hours before the polls close, whichever requires less time.

Subsection 2 - Inclement Weather, Poor Road Conditions, or Other Emergency Situation Conditions

A. All Judges are to presume that the office is open each regular workday unless specifically announced otherwise. Although Judges are expected to be prepared to deal with most emergencies, conditions might occur which will make the closing of all or some hearing offices necessary. The decision to close the office or open it late will be based on the Employer's concern for the health and safety of its employees weighed against the mission of the Employer, including due consideration to the needs of the public. The decision to close the office will be as a result of hazardous conditions that the majority of employees might face reporting to their workplace or returning home. An announcement of full day closing or delay in opening will be made through the news media. Depending on the circumstances of the particular situation, attempts will be made to make a closing decision and broadcast it as early as possible. Judges should be advised that, when storms or other hazardous conditions develop during non-working hours, they should listen to the radio or TV news and follow the Employer's specific instructions. As an additional method of communicating closings and delayed openings, the Employer may provide a telephone number for employees to call to receive a recorded message giving instructions about office hours. Each Judge will receive a copy of SSA's instructions.

B. When a decision is made to close a work place for a full day by administrative order due to inclement weather or other conditions warranting such closing, Judges not required to work, including Judges previously authorized paid leave (e.g., annual, sick, credit hours, or compensatory travel time), will not be charged leave. The Employer will timely notify the news media and employees on duty of such decision.

C. When a decision is made to dismiss Judges during the workday, Judges on duty at the time of the dismissal not involved in essential services will be excused without charge to leave. Those Judges who are on paid leave for the entire day will be excused without charge to leave from the time of the early dismissal. The Judge will be considered on his or her fixed shift for the purpose of computing the amount of excused absence. Judges on LWOP immediately before and after the period covered will continue on LWOP for the period involved. However, in the event a Judge in a duty status on the day of an early dismissal requests paid leave or LWOP and departs before the official dismissal time, leave will be charged only up to the time of the early dismissal.

D. When Judges request paid leave or LWOP because of conditions discussed above and when early dismissals or non-workdays have not been authorized, leave approving officials shall be as liberal as possible in approving such leave. They will give special

consideration to physical or other conditions, which subject Judges to special hazards in such circumstances.

E. When the opening of an office is delayed due to hazardous weather or other emergency conditions, Judges (except essential services unless specifically designated in the announcement) will be excused without charge to leave or loss of pay for the number of hours the office delays opening. Judges on approved (either previously authorized or by telephone on the same day) annual leave, credit hours, compensatory travel time, or sick leave will not be charged leave or lose pay for that portion of the day the opening of the office is delayed. This applies to leave requested for either the entire day or that portion of the day the office is closed. The Employer will utilize the Judge's fixed shift as a point of reference to determine the amount of excused absence/leave to be granted.

F. When an announcement is made that an office will open late, Judges on flextime and affected by the announcement will revert to a prescribed fixed shift for that day. Flextime will be canceled. If the announcement is made too late to effectively cancel flextime for all employees, Judges who report and begin to work will be permitted to leave when they have completed the number of hours in their scheduled workday, provided they continue to work, or the end of their established fixed shift, whichever comes first. Those Judges will be entitled to work credit hours/FWA.

G. If hazardous weather or emergency conditions exist and prevent a Judge from getting to work and the post of duty is not closed, the HOCALJ or acting HOCALJ should grant up to two (2) hours of administrative leave for absence from work upon providing the Employer with reasonably acceptable documentation that the Judge made reasonable efforts to reach work but that emergency conditions prevented timely arrival. Factors, which shall be considered by the Employer and uniformly applied to all Judges within the area affected by the emergency, include:

1. the fact that the Judge lives beyond the normal commuting area;

2. the mode of transportation normally used by the Judge;

3. efforts by the Judge to get to work;

4. the success of other Judges similarly situated;

5. physical disability of the Judge; and

6. local travel restrictions.

In extreme circumstances an individual not reporting for work may be excused up to a full day without charge to leave by the HOCALJ or Acting HOCALJ, in consultation with other appropriate management officials subject to consideration of all of the conditions of (1) through (6) above. Such determination must be made on a case-by-case basis.

H. Judges with Mobility Impairments - During periods of inclement weather or other emergency conditions, a Judge with a disability pursuant to the Rehabilitation Act of 1973, as amended, whether temporary or permanent disability, may be unable to report to work. As a reasonable accommodation, management may grant excused absences even when his or her respective office is open.

I. When hazardous weather or emergency conditions affect the safe conduct of business at a remote hearing site, the Judge shall contact the HOCALJ or Acting HOCALJ for a decision on a course of action. When making this decision the HOCALJ or Acting HOCALJ will give serious consideration to the recommendation of the Judge serving at the site of the hazardous weather and/or emergency conditions. Nothing in this paragraph alters the provisions of Section 7, Subsection 2.D above.

Subsection 3 - Blood/Blood Platelets Donation

A. A Judge who makes a donation of blood without compensation may receive administrative leave for a reasonable amount of time; normally up to three (3) hours for the purposes of donation and recovery. Judges who donate blood platelets without compensation through a Hemapheresis Program will normally be authorized up to four (4) hours of administrative leave. However, the total administrative leave will be limited to the remaining scheduled hours of duty on that day. A Judge who is not accepted for donating blood/blood platelets is only entitled to the time necessary to travel to and from the donation site and the time needed to make the determination. Absence for blood/blood platelets must be approved in advance by the HOCALJ or acting HOCALJ.

B. Administrative leave under this provision may only be granted once during any two (2) month period for a maximum of six (6) blood/blood platelets donations a year.

Subsection 4 – Bone Marrow or Organ Donation

A. Judges may be granted up to seven (7) days of administrative leave each calendar year in addition to annual and sick leave for bone marrow and up to thirty (30) days administrative leave each calendar year for organ donation.

B. The request for administrative leave for bone marrow or organ donation shall be submitted on an SSA-71, or electronic equivalent, to the HOCALJ or Acting HOCALJ with an annotation in the "Remarks" section indicating that administrative leave is requested for bone marrow or organ donation purposes.

Subsection 5 – No Reprisal

Denial of administrative leave shall not be used as an act of adverse action, discipline or reprisal for engaging in protected activity.

Section 8 - Miscellaneous Leave Provisions

Subsection 1 - Court Leave

In accordance with law and government-wide regulations, a Judge is entitled to court leave to serve on a jury or to participate in judicial proceedings in a non-official capacity as a witness in which the United States, the District of Columbia, a state, or a local government is a party. Upon being notified that a Judge needs court leave, the Employer, if requested, will advise the Judge as to the Judge's rights to fees, travel expenses, and other appropriate compensation.

Subsection 2 - Religious Compensatory Leave

A. A Judge whose personal religious beliefs require the abstention from work during certain periods of time may elect to work compensatory time for time lost for meeting those religious requirements consistent with law and regulations. The Employer may allow a Judge, including a Judge whose salary has reached the aggregate pay limitation, to work hours in excess of the basic forty-hour (40-hour) workweek in order to compensate time used when fulfilling religious obligations. The Parties acknowledge that the earning and use of compensatory time off for religious purposes involves a mere substitution of time and, unlike traditional compensatory time off granted under 5 U.S.C. §5543, cannot replace or result in a Judge being entitled to premium compensation.

B. Judges must request religious compensatory time off in advance and by submitting a completed SSA-71 form, or electronic equivalent, to the HOCALJ or Acting HOCALJ.

C. Judges must develop a schedule for earning/repaying the time off and have it approved by their supervisors before they begin to work the religious compensatory time.

D. Religious compensatory time may be earned before or after taking the compensatory time off. However, religious compensatory time may not be earned more than six (6) months before it is to be taken.

E. Judges should request religious compensatory time in the same manner in which leave is requested and approved in Section 1.

F. Judges must repay advanced religious compensatory time before the end of the eighth (8^{th}) pay period after the pay period in which it is used. For any advanced religious compensatory time that is not repaid by the eighth (8^{th}) pay period, the HOCALJ or Acting HOCALJ will offer the Judge an opportunity to use annual leave, leave without pay, credit hours, or travel compensatory time; any leave not repaid by the expiration date will be charged as absence without leave.

G. The Employer has determined that the HOCALJ or Acting HOCALJ should normally approve requests for religious compensatory time off. Such a request may be denied only under extraordinary circumstances where time off for religious observance would severely disrupt the efficient accomplishment of SSA's mission.

H. Normally, Judges must work religious compensatory time in initial increments of at least one (1) hour. However, HOCALJs or Acting HOCALJs may allow them to accumulate or repay religious compensatory time off in smaller increments of not less than fifteen (15) minutes when the initial amount of religious compensatory time requested and approved is eight (8) hours or less, or the balance of religious compensatory time they owe is eight (8) hours or less.

I. If Judges cannot use religious compensatory time on the designated dates or times because of the exigency of public business, they may defer its use for up to eight (8) pay periods. The eight (8) pay periods begin with the first full pay period following the end of the exigency. Any earned religious compensatory time that has not been used within these eight (8) pay periods will be forfeited. Judges may not retain earned religious compensatory time beyond the date the Judge specified on the SSA-71, or electronic equivalent, nor may they earn and "bank" religious compensatory time for future, unspecified religious occurrences.

Subsection 3 – Military Training Leave

In accordance with law and government-wide regulations, a Judge who is a member of the National Guard or other reserve unit of the Armed Forces shall be entitled to up to one hundred twenty (120) hours of regular military leave in a fiscal year for active duty or active and inactive duty for training. Judges who are entitled to regular military leave but who do not use their entire entitlement may carry over the unused portion from one fiscal year to the next. A maximum of one hundred twenty (120) hours can be carried over. Approval of the military leave shall be based on the copy of the orders directing the Judge to active duty. Nothing in this Article is intended to preclude a Judge's right to military leave that is provided pursuant to applicable law.

Subsection 4 - Preventive Health Care Screenings

Pursuant to Presidential Memorandum of January 4, 2001, Judges with fewer than eighty (80) hours of accrued sick leave may be granted up to four (4) hours of excused absence in a calendar year, without loss of pay or charge to leave, for participation in preventive health screenings such as, by example, mammography, pap smears, and blood pressure and cholesterol checks. Such absence will be requested and approved in advance of the use and will be supported by adequate documentation. The supporting documentation may be an annotation on the SSA-71, or electronic equivalent, indicating that the leave is for preventive health screenings.

Section 9 - Leave of Absence

Subsection 1

The Employer agrees to approve a leave of absence without pay for any Judge elected to a position of national officer of IFPTE, AFL-CIO or its affiliated organizations for the purpose of serving full-time in the elective position. Such leave of absence will be for a period concurrent with the term of office of the elected official and will automatically be renewed by the Employer upon notification in writing from the Judge that he or she has been reelected and wishes to continue in a leave of absence status.

Subsection 2

The Employer agrees to approve a leave of absence without pay for Judges for the purpose of serving in full-time appointive positions for the IFPTE, AFL-CIO or its affiliated organizations. The term of the leave will be no more than two (2) years. All affected Judges may have their leave of absence renewed for one (1) additional two-year (2-year) period upon request.

ARTICLE 19

TRAVEL AND TRANSPORTATION

Judges may be required to travel on behalf of the Employer. To provide for a uniform policy and procedure that shall apply to all Judges, the following provisions shall apply when a Judge is required to travel, consistent with law, government-wide rules and regulations and Employer policies.

Section 1

A. The Employer shall follow the travel rules and regulations established by the General Services Administration pursuant to 5 U.S.C. §5701 *et seq*. and 41 C.F.R. Chapters 300-304. Provided, however, that Employer travel regulations and/or policy shall be applied if the same is more advantageous to the Judge as the traveler. All travel approval shall be pursuant to applicable law, Employer's rules, regulations and policy.

B. The period of entitlement to travel expenses begins when a Judge leaves on official business from the home, permanent duty station, or other authorized point of departure, and ends when a Judge returns to the home, permanent duty station or other authorized point at the conclusion of the trip.

C. Applicable law shall govern whether a Judge in travel status is covered by the Federal Employees' Compensation Act.

Section 2

A. Generally, travel by common carrier results in the most efficient use of energy resources and is the least costly and most expeditious for performance of travel. Travel by common carrier shall be used whenever it is reasonably available. Other methods of transportation may be authorized as advantageous only when the use of common carrier transportation would seriously interfere with the performance of official business, impose an undue hardship on the traveler, or when the total cost by common carrier exceeds the cost by another method of transportation.

B. When a common carrier is employed as the principal mode of travel, a government contract rental car should be authorized for official business if the Judge has submitted an advance written request for a government contract rental car setting forth the need for a government contract rental car, and:

    1. the Judge has to transport case files, recording equipment or other government property that is too bulky to carry on the person and makes using taxi service impracticable; or

2. the travel is to an area where taxi service is not reasonably available; or

3. when use of a government contract rental car is more economical than other modes of transportation (e.g., the cost of taxi service to and from the airport, from the hotel to the hearing site, to and from locations where meals are taken where the nature and location of work at the temporary duty station is such that suitable meals cannot be obtained there exceeds the cost of a rental car).

C. When travel by privately owned vehicle (POV) is of equal or lower cost than travel by common carrier, use of a POV may be authorized. However, no Judge shall be required to use a POV for government travel. A Judge shall be compensated for the use of an authorized POV according to the Federal Travel Regulations.

D. To the maximum extent permitted by law, an Administrative Law Judge will set the time and place for the hearing. The Employer recognizes that many factors affect the number of cases that a Judge can hear in a given day (i.e., complexity of the issues, whether translators or expert witnesses are required, whether the case involved an Appeals Council or Court Remand, the distance of travel involved, etc.). Given such, the parties agree that the July 1, 1994 memorandum entitled "ALJ Travel Guidelines" (Appendix A to Article 19) shall serve as a guide for the scheduling of cases that require travel, consistent with applicable law. The Employer has determined that all proposed travel dockets must be approved by the HOCALJ or acting HOCALJ.

E. In accordance with 41 C.F.R. §301-50.3, Judges are required to use the Employer's E-Gov Travel Service, Federal Travel Management Service (TMS) (SSA's TMS currently is CWTSatoTravel) to make all authorized travel arrangements (e.g., lodging, air/rail transportation tickets and rental vehicles) for official travel. Under the Hotel and Motel Fire Safety Act of 1990, federal employees on travel must stay in public accommodations that are consistent with the requirements of the Act. Management will provide appropriate assistance to employees with travel orders, travel advances, travel authorizations, travel vouchers and travel arrangements. A Judge may alter travel arrangements during the course of travel using the Employer's current TMS provided there is no increased cost to the government. In an emergency, e.g., a flight has been cancelled and the next available flight is leaving within a short time and calling the current TMS would result in the Judge being unable to reschedule the flight, the Judge may make arrangements with the airlines directly. A Judge must use his or her Government contractor-issued travel charge card for all authorized official travel expenses and for making authorized ATM withdrawals approved by the Judge's travel authorizing official (e.g., transportation tickets, lodgings, car rentals). The Administrator of the General Services Administration exempts the following from the mandatory use of the Government contractor-issued travel charge card:

1. expenses incurred at a vendor that does not accept the Government contractor-issued travel charge card;

2. laundry/dry cleaning;

3. parking;

4. local transportation system;

5. taxi;

6. tips;

7. meals (when use of the card is impracticable, e.g., group meals or the Government contractor-issued travel charge card is not accepted);

8. phone calls (when a Government calling card is available for use in accordance with Employer policy);

9. an employee who has an application pending for the travel charge card;

10. individuals traveling on invitational travel; and

11. new appointees who have not been issued a Government contractor-issued travel charge card.

It is understood that the travel card is to be used for official purposes only and may only be used in conjunction with official government travel. It is recognized by the Employer that the lodging receipt may contain miscellaneous discretionary expenses that are not authorized for reimbursement under the travel authorization. The Employer has decided that if the lodging facility will not separate such expenses so that the Judge may use a personal credit card, or other means of payment, such charges are permitted to be paid using the government-contractor issued travel card.

F. Advance Authorization for Actual Expenses. If a Judge is scheduled to travel to a location, for which a per diem allowance is prescribed, and the Judge cannot obtain lodging at that location at or below the prescribed lodging rate, the Judge must request advance authorization for travel on the basis of actual expenses. Any such request will normally be approved when the supporting justification showing warranted circumstances for the request meets Employer guidelines. Actual expense reimbursement may be authorized up to a limit of 150 percent of the prescribed per diem rate (lodgings and meals and incidental expenses (M&IE)) for the locality. This provision applies only to travel involving assignments of thirty (30) calendar days or less. Any request submitted should be approved or declined within two (2) days after submission, but in any event not later than seven (7) days prior to the scheduled travel.

G. Post Approval for Actual Expenses. Reimbursement for actual expenses allowable under law and/or government-wide rules and regulations may be authorized on a post approval basis if the Judge can justify that prudent expenses required by the ordered travel exceeds

(as defined by Employer guidelines) the prescribed per diem rate. This provision applies only to travel involving assignments of thirty (30) calendar days or less.

Judges may be reimbursed for up to $3.00 per day for the actual cost of calling home once a day when on temporary duty.

H. While Judges are assigned to duty away from their official duty station, they may elect to return home during non-workdays or non-work hours. In such cases, the Judge shall be reimbursed for travel expenses not to exceed the amount reimbursable had the Judge remained at the temporary duty station. However, if there is a personal or family emergency, such as the death or serious illness of a member of the traveling Judge's family (e.g., spouse or domestic partner, and parents thereof; children, including adopted children, and spouses thereof; grandchildren; parents; brothers and sisters, and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship); or a catastrophic occurrence or impending natural disaster, such as fire or flood, which directly affects the traveling Judge's home, requiring the Judge to return home, the Employer shall pay reasonable costs (including transportation and per diem) for the traveling Judge's return trip to his or her official duty station consistent with Federal Travel Regulations and other applicable law and regulation.

I. When a Judge in travel status is injured or becomes ill, the Employer shall reimburse the Judge for expenses incurred in returning to the Judge's official duty station, consistent with Federal Travel Regulations and other applicable law and regulation.

J. The Employer shall process all claims for travel expenses as expeditiously as possible.

K. Reasonable periods of time spent by a traveling Judge during regular duty hours to make emergency repairs or refueling a vehicle used to conduct government business shall be considered duty time.

L. ODAR has decided that an approved travel docket should, upon request of the traveling Judge, include a reasonable amount of time for the Judge to pick up and return a government owned vehicle or a rental vehicle obtained under the government-wide motor vehicle rental program.

M. The Employer recognizes that a Judge leaving for and returning from a hearing trip may have to transport hearing equipment and materials that will not exceed the Judge's physical capabilities. Therefore, on the day a Judge leaves from his or her official duty station (office) for a hearing trip and on the day a Judge returns to his or her official duty station after a hearing trip (this would include the last day in the office prior to departure for travel and the first day back in the office upon return from travel), the Judge shall ordinarily be reimbursed for the difference between his or her usual cost of daily parking and the cost incurred for parking at the closest available parking facility unless:

1. that expense would be imprudent,

2. a loading/unloading area is available, or

3. government provided parking is available.

The Judge must note on his/her travel voucher that the cost of the parking was incurred due to transporting hearing equipment and materials.

N. A Judge is accountable for government documents and property in his or her possession and/or custody. Judges exercising reasonable care will not be held responsible for documents or property damaged, lost, or stolen from their possession and/or custody. The Employer will provide when necessary an appropriately sized locked container for the Judge's use while traveling to remote sites.

O. Consistent with 5 U.S.C. §5584, a claim of the United States against a person arising out of an erroneous payment of pay or allowances, or arising out of an erroneous payment of travel, transportation or relocation expenses and allowances, to an employee of an Employer, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by the Commissioner or designee when:

   a. the claim is in an amount aggregating not more than $1,500;

   b. the claim is not the subject of an exception made by the Civilian Board of Contract Appeals (CBCA) in the account of any accountable official; and

   c. the waiver is made in accordance with standards which the CBCA shall prescribe.

Section 3 - Mass Transportation Subsidy

The Employer will continue to provide a public transportation subsidy program for bargaining unit Judges subject to the availability of funds.

All employees are eligible to apply for a transportation subsidy from the Employer. Employees eligible to participate in the Employer transportation subsidy program, which will be in accordance with government-wide rules and regulations, may receive a subsidy not to exceed the amount of their actual monthly commuting expenses, up to the maximum amount authorized by this Agreement.

As soon as administratively possible after the effective dates shown below, the Employer will reimburse AALJ Bargaining Unit employees (with duty stations outside of the National Capital Region) up to the amount shown below per month for allowable transportation expenses in accordance with government-wide rules and regulations.

- Beginning October 1, 2012 up to $75
- Beginning October 1, 2013 up to $80
- Beginning October 1, 2015 up to $90

AALJ bargaining unit employees in the National Capital Region (NCR) will be reimbursed up to $125 per month for allowable transportation expenses in accordance with government wide rules and regulations. The Employer maintains the discretion, to the extent provided by Law or Executive Order, to increase the monthly reimbursement amounts should a subsequently enacted Law or Executive Order increase the monthly allowable reimbursement limit for the NCR.

If, during the duration of this CBA, any other collective bargaining unit within the Social Security Administration Office of Disability Adjudication and Review negotiates terms and conditions of a mass transportation subsidy more favorable to their bargaining unit than those set forth herein the AALJ Judges shall be granted the same terms and conditions.

ARTICLE 20

REASSIGNMENTS AND HARDSHIPS

Section 1

A. Pursuant to 5 U.S.C. §7106, the Employer retains the right to reassign management Judges without giving preference to the reassignment list, except as noted below with regard to the National Hearing Center Judges.

B. With the exception of the National Hearing Center Chief Judges; although classified as supervisory non-bargaining unit Judges, the National Hearing Center Judges will not be transferred into bargaining unit Judge positions other than by means of the Article 20 reassignment register. The National Hearing Center Judges will be permitted to be placed on the reassignment register and to select vacancies under the same processes and the same priorities as apply to the reassignment of bargaining unit Judges pursuant to Article 20.

C. For the purposes of this Article, "hearing office" shall include existing hearing offices, newly created hearing offices, satellite offices, and newly created satellite offices.

Section 2 – Reassignments

To establish a uniform policy for the voluntary, non-reimbursable reassignment of Judges, the following provisions shall apply:

A. The Employer will determine when there is an open position in a hearing office that will be filled by permanent reassignment or assignment with a Judge.

B. Because Judge reassignments made under this provision are at the request of the Judge and are primarily for the benefit of the Judge, all expenses related to any requested relocation will be paid by the Judge.

C. The reassignment register and its "affirmed list" as described below shall be used to fill all non-management Judge vacancies, except as otherwise provided for in Section 1. In the event ODAR determines that an incumbent Judge's reassignment pursuant to the provisions set forth herein results in a permanent opening in his or her former hearing office, ODAR shall also back-fill that new vacancy from the "affirmed list." The provisions of this Article shall cease to apply to any additional permanent openings created by the reassignment of that second Judge.

D. It is understood that reassignments are subject to the prior approval of OPM under 5 C.F.R. §930.204.

Section 3

A. The Employer shall maintain a reassignment register organized by hearing office and satellite office that contains the name of each volunteer Judge, the date the request for reassignment was e-mailed to the Employer and the date the Judge was appointed. The Employer will provide to the President of the AALJ an electronic copy of the current reassignment register on the first working day of each month.

B. A Judge who has received a letter of reprimand that has been placed in an SF-7B employee record extension file or who has been disciplined pursuant to 5 C.F.R. §930.214 shall have his or her name removed from the request register after final adjudication of the issue and shall not be eligible to have his or her name returned to the register for requested reassignment until twelve (12) months have passed from the date of final adjudication.

C. Judges hired before October 9, 2015 must have completed ninety (90) days of continuous service with the Employer to be eligible for a voluntary reassignment. The request for reassignment will not be accepted if it is sent prior to the 91st day of continuous service. Judges hired after October 9, 2015 must complete 15 months (450 days) of continuous service with the Employer to be eligible for a voluntary reassignment. The request for reassignment will not be accepted if it is sent prior to the 451st day of continuous service.

D. A Judge who places his or her name on the register for more than five (5) hearing offices shall not be eligible for selection for any requested reassignment.

E. The names of the Judges on the register shall be ranked for requested reassignment selection according to the date the Judge's name was entered on the register for that hearing office. The date of entry on the reassignment register shall be deemed the date the request was e-mailed to the Employer. All requests for reassignment shall be e-mailed to the Office of the Chief Administrative Law Judge's specified e-mail box with a copy sent to the proposed gaining and losing Regional Chief ALJ(s) and to the AALJ President or designee. In the event two or more Judges have the same request date on the register for a particular hearing office, the Judge with the earliest appointment date as a Judge shall be considered for selection. In the event that two (2) or more Judges have the same appointment date, then the one with the earliest federal service computation date shall be considered for selection. In the event there are two or more qualified Judges with the same federal service computation date, then the selection shall be determined by the Chief Administrative Law Judge or his or her Deputy pulling the name out of a hat. When such a selection is required the AALJ President will be notified, and the AALJ President may elect to be present either in person or by video. Should the AALJ President or his or her designee elect to be present in person all costs incurred shall be at AALJ expense.

F. Should the number of qualified volunteers exceed the number of positions the ODAR decides to fill by reassignment in a particular hearing office, the ODAR shall consider selecting the Judge whose name appears at the top of the affirmed list, described in

Section 3(G) below, for that hearing office if the Judge is eligible for reassignment. If an eligible Judge refuses the reassignment, then the ODAR shall consider selecting the next eligible Judge in descending order on the affirmed list for that hearing office.

G. Prior to making any offers to Judges on the reassignment register for an office with at least one (1) vacancy, the Employer shall send an e-mail to the office e-mail of all Judges on the register for that office in advance of any anticipated reassignments to that office. This e-mail will not be an offer of reassignment, but shall inquire of each Judge as to whether he or she would be willing to accept a transfer to that office, should the Employer make such a reassignment offer within the next ninety (90) calendar days. The e-mail shall state that all Judges must respond within five (5) working days of receipt of the e-mail. If a Judge does not respond within five (5) working days of receipt of this inquiry, the lack of reply shall be deemed to be a waiver of reassignment. However, this would not change the ranking of a Judge on the reassignment register for that office. After the five (5) business day response period, the Employer will commence making offers for reassignment from the affirmed list in accordance with Section 3(F), above. If a Judge responds to the e-mail inquiry stating that he or she would accept such a reassignment if offered and then subsequently declines an offer when it is made, the Judge will be removed from the register for that location for a period of one (1) year.

H. If, upon consideration, the Employer does not offer a reassignment to the Judge who is first on the affirmed list in accordance with Section 3(F), above, for a hearing office with a permanent opening, the Employer will provide its reason(s) in writing for the non-selection to the Judge not selected. The Parties agree that the following reasons may justify the non-selection of an otherwise eligible Judge: factors set forth in cases dealing with the employment relationship. Although not inclusive, examples of cases containing agreed upon factors are set forth in Appendix A.

I. Upon notification that he or she has been selected for a requested reassignment, a Judge will accept or decline within three (3) working days of the notification. If a Judge declines an offer of reassignment three (3) times, regardless of location, his or her name will be removed from the register for all locations for a period of at least two (2) years.

J. If a Judge accepts a reassignment his or her name shall be removed from the register for other offices and he or she must report to the new office within forty-five (45) days of acceptance or as otherwise mutually agreed by the Parties. A Judge who accepts a reassignment shall continue to hear and decide cases that have been scheduled for him or her in the hearing office he or she is leaving and will coordinate his or her travel plans with the gaining hearing office to facilitate the scheduling of hearings to be held upon reporting for duty at the new location.

K. A Judge may have his or her name removed from any voluntary reassignment register by sending a written request to the Office of the Chief Administrative Law Judge's specified e-mail box with copies to the proposed gaining and losing Regional Chief ALJ(s) and the AALJ President or designee.

Section 4

When there are no qualified Judges on the register for a newly created hearing office and the Employer has decided to reassign Judges to that office, a posting period of fifteen (15) working days will be established. Any Judge who wishes to be reassigned to that office must submit his or her written request by e-mail to the Office of the Chief Administrative Law Judge's specified e-mail box with copies to the losing and gaining RCALJs and the AALJ President or designee within the specified period. All requests from Judges for reassignment received during this posting period shall be deemed to have been received on the same date. Therefore, ranking on the listing for the posted local hearing office will be determined by the procedure set forth above in Section 3(E). The Judge with the earliest determined date using the tie breaking procedures shall normally be reassigned and if not, the provisions of Section 3(H) shall apply.

Section 5 - Hardships

A. Hardship Detail

1. A Judge may request a voluntary, non-reimbursed hardship detail to another hearing office by sending his or her written request to the Office of the Chief Administrative Law Judge with a copy to the affected RCALJ(s) and to the AALJ President or designee.

2. A hardship is defined as a set of circumstances that:

    a. Are beyond the Judge's control; and

    b. Arose after the Judge accepted the job as an ALJ for ODAR;

    c. Are so severe that they jeopardize the Judge's or his or her family member's health or financial security. Family member is defined in 5 C.F.R. §630.201.

3. The Employer will give good faith consideration to any request for a hardship detail based upon factors including, but not limited to the following:

    a. Need for additional ALJ(s) in a particular hearing office.

    b. Maintaining balance between workload and resources in the gaining and losing hearing offices.

    c. The effect on space and staffing in the gaining and losing hearing offices.

    d. The reasons given for the hardship detail.

e. The recommendations of the affected Regional Chief ALJ(s) and Hearing Office Chief ALJ(s).

4. If a hardship detail is offered, it shall be at no cost to the Employer and shall not exceed one hundred twenty (120) days and may be renewed for an additional one hundred twenty (120) days if the hardship condition continues.

Section 6- Miscellaneous

Any Judge reassigned shall not be eligible to request any type of reassignment for two (2) years from the effective date of the action as indicated on the SF-50.

Section 7

Nothing in this Article shall preclude the Employer from paying expenses related to a reassignment when it is made in the best interest of the government consistent with law.

ARTICLE 20 - APPENDIX A

SSA v. Anyel, 58 M.S.P.R. 261 (1993)

SSA v. Arterberry, 15 M.S.P.R. 320 (1983)

AALJ v. Heckler, 594 F.Supp. 1132 (1984)

SSA v. Balaban, 20 M.S.P.R. 675 (1984)

Benton v. U.S., 203 Ct.Cl. 263; 488 F.2d 1017 (4th Cir. 1973)

SSA v. Biesman, 73 M.S.P.R. 82 (1997)

SSA v. Brennan, 19 M.S.P.R. 335 (1984); *opinion clarified SSA v. Brennan,* 20 M.S.P.R. 35 (M.S.P.B. Mar 14, 1984) ; *Appeal After Remand,* SSA v. Brennan, 27 M.S.P.R. 242 (M.S.P.B. Apr 15, 1985); *Affirmed,* Brennan v. Department of Health & Human Services, 787 F.2d 1559 (Fed.Cir. 1986); *Certiorari Denied, Brennan v. Department of Health and Human Services,* 479 U.S. 985, 107 S.Ct. 573, 93 L.Ed.2d 577 (U.S. Dec 01, 1986)

SSA v. Boham, 38 M.S.P.R. 540 (1988); *affirmed, Boham v. Social Security Administration,* 883 F.2d 1026 (Fed.Cir. Jul 17, 1989)

SSA v. Bronczyk, 1993 MSPB Lexis 60 (1993)

SSA v. Burris, 39 M.S.P.R. 51 (1988); *affirmed, Burris v. Social Security Administration Department of Health and Human Services,* 878 F.2d 1445 (Fed.Cir. May 11, 1989); *Certiorari denied, Burris v. Social Security Administration,* 493 U.S. 855, 110 S.Ct. 158, 107 L.Ed.2d 116 (U.S. Oct 02, 1989)

Butz et al., v. Economu et al., 438 U.S. 478; 98 S.Ct. 2894; 57 L.Ed.2d 895 (1978)

Heckler v. Campbell, 461 U.S. 458; 103 S.Ct. 1952; 76 L.Ed.2d 66 (1983)

SSA v. Carr, 78 M.S.P.R. 313 (1998)

SSA v. Carter, 35 M.S.P.R. 466 (1985); *opinion adopted by,* SSA v. Carter, 35 M.S.P.R. 485 (M.S.P.B. Nov 24, 1987); *affirmed, Carter v. Social Security Administration Department of Health and Human Services,* 856 F.2d 202 (Fed.Cir. Aug 29, 1988)

In Re Chocallo, 2 M.S.P.B. 23, 1 M.S.P.R. 612 (Civ.Serv.Comm. Dec 05, 1978); *affirmed, Matter of Chocallo,* 2 M.S.P.B. 20, 1 M.S.P.R. 605 (M.S.P.B. Mar 20, 1980)

D'Amico et al., v. Schweiker et al., 698 F.2d 903 (7th Cir. 1983)

SSA v. Dantoni, 77 M.S.P.R. 516 (1998); *affirmed, Dantoni v. Social Security Administration,* 173 F.3d 435 (Fed.Cir. Oct 09, 1998)

SSA v. Davis, 19 M.S.P.R. 279 (1984); *affirmed, Davis v. Department of Health & Human Services,* 758 F.2d 661 (Fed.Cir. Oct 04, 1984)

In Re Doyle, 22 M.S.P.R. 317 (1984)
In Re Doyle, 24 M.S.P.R. 409 (1984)
In Re Doyle, 1985 M.S.P.B. Lexis 1655 (1985)
In Re Doyle, 29 M.S.P.R. 170 (1985)
In Re Doyle, 41 M.S.P.R. 31 (1989)

SSA v. Friedman, 41 M.S.P.R. 430 (Table) (Sep 06, 1989)

SSA v. Glover, 23 M.S.P.R. 57 (1984)
In Re Glover, 2 M.S.P.B. 73, 1 M.S.P.R. 660 (M.S.P.B. Mar 16, 1979); *affirmed as modified , Matter of Glover,* 2 M.S.P.B. 71, 1 M.S.P.R. 660 (M.S.P.B. Mar 20, 1980)

SSA v. Givens, 27 M.S.P.R. 360 (1985)

SSA v. Goodman, 19 M.S.P.R. 321 (1984)
Goodman v. Svahn et al., 614 F.Supp. 726 (D. D.C. 1985)

SSA v. Goosens, 1993 M.S.P.B. Lexis 62 (1993)

SSA v. Haley, 20 M.S.P.R. 365 (1984)

In re King, 1 M.S.P.R. 146; 1 M.S.P.B. 144 (1979)

Lawson v. DHHS, 64 M.S.P.R. 673 (M.S.P.B. Oct 21, 1994); *affirmed Lawson v. Department of Health and Human Services,* 73 F.3d 377 (Fed.Cir. Nov 22, 1995)

SSA v. Liebling, 62 M.S.P.R. 12 (1994)

SSA v. Liebling, 71 M.S.P.R. 465 (1996)

SSA v. Long, 111 M.S.P.R. 109, 2010 MSPB 19 (M.S.P.B. Jan 27, 2010) (Docket Number CB-7521-08-0019-T-1). Long v. SSA, U.S. Ct. Apps. Fed.Cir. 2010-3108 March 14, 2011.

SSA v. Manion, 19 M.S.P.R. 298 (1984)

McEachern v. U.S., 212 F. Supp. 706 (W.D.S.C. Jan 07, 1963); *affirmed in part, vacated in part, remanded,* McEachern v. U.S., 321 F.2d 31 (4th Cir. (S.C.) Jul 25, 1963)
McEachern v. Macy et al., 233 F. Supp. 516 (W.D.S.C. Jul 08, 1964); *affirmed,* McEachern v. Macy et al., 341 F.2d 895 (4th Cir. (S.C.) Feb 19, 1965)

SSA v. Malloy, 1995 M.S.P.B. Lexis 1490 (1995)

Nash v. Califano, 613 F.2d 10 (2nd Cir. 1980)
Nash v. Bowen, 869 F.2d 675 (2nd Cir. 1989)

SSA v. Osinski, 1990 M.S.P.B. Lexis 888 (1990)

In Re Perry, 39 M.S.P.R. 446 (1989)

SSA v. Pucci, 27 M.S.P.R. 358 (1985)

In Re Pulcini, 83 M.S.P.R. 685 (1999)

Ramspeck et al., v. Federal Trial Examiners Conference et al., 345 U.S. 128;
73 S.Ct. 570; 970 L.Ed. 872 (1953)

Richardson v. Perales, 402 U.S. 389; 91 S.Ct. 1420; 28 L.Ed. 2d 842 (1971)

In Re Rowell, 46 M.S.P.R. 568 (1991)

In Re Sannier et al., 45 M.S.P.R. 420 (M.S.P.B. Jul 02, 1990); *affirmed,* Sannier et al., v. MSPB, 931 F.2d 856 (Fed.Cir. Apr 23,1991)

In Re Spielman, 1 M.S.P.R. 50; 1 M.S.P.B. 50 (1979)

In Re Stephens, 52 M.S.P.R. 522 (M.S.P.B. Jan30, 1992); *affirmed,* Stephens v. MSPB, 986 F.2d 493 (Fed.Cir. Feb 19, 1993)

Steverson, 111 M.S.P.R. 649, 2009 MSPB 143 (M.S.P.B. Jul 27, 2009)

SSA v. Underwood, 68 M.S.P.R. 24 (1995)

In Re White, 76 M.S.P.R. 447 (M.S.P.B. Sep 19, 1997); *affirmed, White v. Social Security Administration,* 152 F.3d 948 (Fed.Cir. Apr 16, 1998)

SSA v. Whittlesey, 1991 M.S.P.B. Lexis 1212 (1991)
SSA v. Whittlesey, 59 M.S.P.R. 684 (M.S.P.R. Dec 07, 1993); *affirmed, Whittlesey v. Office of Hearing and Appeals, Social Security Administration,* 39 F.2d 1197 (Fed.Cir. Oct 12, 1994); *certiorari denied, Whittlesey v. Office of Hearing and Appeals, Social Security Administration,*514 U.S. 1063, 115 S.Ct. 1690, (U.S. Apr 17, 1995); *rehearing denied, Whittlesey v. Office of Hearing and Appeals, Social Security Administration,* 515 U.S. 1119, 115 S.Ct. 2270 (U.S. May 30, 1995)

ARTICLE 21

RECORDS

Section 1 – General Provisions

A. The collection, maintenance, retention, and retrieval of Employer's records on Judges shall be in accordance with law, government-wide rules, regulations, and this Agreement.

B. The following records are maintained in a system of records by the Employer pursuant to the Privacy Act of 1974, as amended:

1. The Electronic Official Personnel File (e-OPF) or subsequent electronic equivalent;

2. SSA-7B Employee Record or electronic equivalent;

3. SSA-7B Employee Record Extension File or electronic equivalent;

4. Mainframe Time and Attendance System (MTAS) or subsequent electronic equivalent;

5. Complaints filed pursuant to 57 Fed. Reg. 49186-187 (1992) "Procedures Concerning Allegations of Bias or Misconduct by ALJs" alleging bias or misconduct by Judges in the decisional process.

This list of records is not all-inclusive. Further, this provision does not constitute a waiver of any right either Party may have, pursuant to 5 U.S.C. Chapter 71, with regard to the maintenance or access of the records.

C. Personal notes or diaries (i.e., memory joggers) pertaining to a Judge but not qualifying as a system of records under the Privacy Act may only be kept and maintained for the personal use of the management official who wrote them. A memory jogger is: (a) retained as a memory aid by the supervisor; (b) for the supervisor's personal use; (c) not to be provided to any other person; and, (d) retained or discarded at the supervisor's discretion. These notes are considered mere extensions of the supervisor's memory and are not subject to the Privacy Act. However, if any of the conditions are breached, these notes are no longer mere extensions of the supervisor's memory and become records subject to the Privacy Act. Memory joggers should be maintained in a secure location. Memory joggers stored electronically shall be password protected.

D. The Employer acknowledges that it currently maintains the following records:

1. Outside Activity/Outside Employment Requests;

2. Reassignment requests;

3. Congressional inquiries.

This list of records is not all-inclusive. Further, this provision does not constitute a waiver of any right either Party may have, pursuant to 5 U.S.C. Chapter 71, with regard to the maintenance or access of the records.

E. Representatives of the Employer may not maintain personal (i.e., a record maintained and retrieved by personal identifier, for example, SSN or name) files on a Judge outside of the Electronic Official Personnel Folder or subsequent electronic equivalent and personnel records and files maintained by the hearing offices unless those records are properly declared under the Privacy Act.

F. All Employer records maintained on Judges shall be screened and purged and outdated material shall be removed as provided by applicable law, regulation, and the SSA PPM.

G. Any designation of a representative allowed under this Article shall be made by the Judge in writing.

Section 2 – Personnel Records

A. The Electronic Official Personnel File (e-OPF), or any subsequent electronic equivalent, is currently maintained online by the Employer. Judges will have access to their own e-OPF. The SSA-7B Employee Record Extension file or electronic equivalent is maintained in the hearing office to which the Judge is assigned. The President of the AALJ shall be notified in writing of changes in the operating procedures affecting personnel records that affect a condition of employment, consistent with 5 U.S.C. Chapter 71.

B. Except as authorized by this Agreement, the SSA-7B Employee Record and the SSA-7B Employee Record Extension File, or any electronic equivalents, are the only authorized files for personnel records that may be maintained by the HOCALJ, or other management designee, in the hearing office. This does not preclude records maintained in the ordinary course of business, e.g., time and attendance. Personnel records maintained in the hearing office, whether paper or electronic, will be stored in a secure manner.

1. The SSA-7B Employee Record Extension File, or electronic equivalent, shall be screened and purged normally in February of each year, but in any case no later than March of each year, and outdated material shall be removed and given, or mailed, to the Judge.

2. Consistent with 20 C.F.R. §401.65 *et seq*., or as amended, if a Judge wishes to rebut a particular issue which is documented in the SSA-7B Employee Record Extension File, or electronic equivalent, the Judge should be given the opportunity to provide written comments relating to the record in question and such comments shall be filed in the SSA-7B file.

C. An in-process working file is a temporary file used to house an administrative action (e.g., grievance) while it is being processed and is maintained pursuant to SSA's PPM (PMS).

D. Each Judge shall be advised annually in writing of the purpose and location of their e-OPF, SSA-7B Employee Record and SSA-7B Employee Record Extension File, or electronic equivalents.

1. The Judges or their designated representative may review their e-OPF and request a copy of any material therein.

2. Judges shall be notified and given a photocopy of any material placed in their SSA-7B Employee Record Extension File, or electronic equivalent, within 3 workdays. Judges should acknowledge receipt by signature. It is understood that such acknowledgment does not constitute agreement with the contents.

3. A copy of any document furnished to the Judge and/or designated representative shall be furnished by the Employer free of charge. It is understood that a Judge or a Judge's designated representative may request, and within reason, receive additional copies of a document at any time.

E. Access to personnel records of the Judge by the Judge or by an authorized representative shall normally be granted within 2 workdays from the date of request, if such records are immediately available, are maintained on the premises where the Judge is located, and when applicable, the Judge has provided a written designation of his/her representative in writing to the HOCALJ, or his/her designee. If the personnel records are not maintained on the premises where the Judge works, the Employer shall take prompt action to obtain the record and provide a copy to the Judge within 30 workdays from the date the Employer receives the Judge's written request for his/her personnel record; however, the AALJ agrees that the Employer is not required to initiate any action to obtain the record until the Judge has submitted a written request for the personnel record to the appropriate management official. Personal access to paper versions of personnel records (e.g., e-OPF, SSA-7B Employee Record, SSA-7B Employee Record Extension File) shall take place in the presence of an appropriate management official or designee.

Section 3

The maintenance of a personnel record or personnel file by the Employer that contains personal information that is filed and retrieved by a Judge's name, social security number, or other unique identifier assigned to the Judge is prohibited unless the record or file is covered by a system of records notice published in the Federal Register pursuant to the Privacy Act.

Section 4 - Bias and Misconduct Complaints

A. Since 1993 the ODAR has established and maintained operational procedures for soliciting, receiving, investigating, storing, and accessing allegations of bias and misconduct on the part of Judges as referenced in 57 FR 49,186 (1992) and contained in a "Directive to OHA Personnel Concerning Interim Responsibilities and Procedure For the Handling of Complaints of Bias or Misconduct on the Part of the Administrative Law Judge."

B. Complaints of bias or misconduct made to the ODAR and received by either the Appeals Council (in the form of a Request for Review), OCALJ, Special Counsel Staff (SCS), RCALJ, OCALJ, or an SSA field office about a Judge from members of the public or co-workers shall be brought to the attention of the Judge as soon as possible by providing a copy of the complaint alleging bias or misconduct to the Judge consistent with law.

C. Nothing in the foregoing shall otherwise affect the operation of 20 C.F.R. §404.940 or 20 C.F.R.§416.1440 concerning the disqualification of the Administrative Law Judge.

ARTICLE 22

SENIORITY

Seniority shall be determined by the AALJ as follows:

A. In the absence of unanimous agreement by the bargaining unit Judges in a local ODAR hearing office for issues concerning only local hearing office matters, including but not limited to individual private offices and parking designated for Judges, the controlling factor shall be the date of last assignment of the Judge to the local hearing office in the position of a Judge.

B. For all other issues the controlling factor shall be the date of appointment as a Judge for the Employer.

C. In the event the above factors do not resolve the issue, the issue shall be resolved by a coin toss. If more than two (2) Judges are involved in the dispute, the issue shall be resolved by a random selection process to be decided upon by the AALJ.

D. The above provisions of this Article shall not apply to issues arising under Article 20, Reassignments and Hardships of this Agreement.

E. In the event a law or government-wide rule or regulation is in conflict with the provisions of this Article, the matter shall be resolved in accordance with the law or government-wide rule or regulation.

ARTICLE 23

HEALTH AND SAFETY

Section 1

A. The Employer shall provide and maintain safe and healthy working conditions for all Judges in accordance with Executive Order 12196 and the Department of Labor implementing instructions.

B. The Employer and the AALJ agree to cooperate in a continuing effort to avoid and reduce the possibility of and/or eliminate accidents, injuries, and health hazards in all areas under the Employer's control.

C. The Employer and the AALJ further agree to cooperate in a continuing effort to eliminate and/or reduce security concerns and otherwise enhance the personal safety of Judges in SSA/ODAR hearing offices, satellite offices, and remote site locations.

D. The Employer agrees to notify the AALJ if a deviation in the Employer's occupational safety, health, and fire standards is requested for any facility in which Judges are required to work.

Section 2

A. The Employer will encourage law enforcement officials to pursue allegation of criminal conduct violative of 18 U.S.C. §111 (Assaulting, Resisting, or Impeding Certain Officers or Employees), §115 (Influencing, Impeding, or Retaliating Against a Federal Official by Threatening or Injuring a Family Member), §372 (Conspiracy to Impede or Injure Officer), §876 (Mailing Threatening Communications), §1111 (Murder), §1112 (Manslaughter), §1113 (Attempt to Commit Murder or Manslaughter), §1114 (Protection of Officers and Employees of the United States), §1117 (Conspiracy to Murder), §1201 (Kidnapping), and 42 U.S.C. §1320a-8b (Attempts to Interfere with Administration of Social Security Act) involving any Judge while engaged in or on account of the performance of any Judge's official duties where the Employer determines such action is warranted.

B. The Employer shall provide to the AALJ quarterly (April 15, July 15, October 15, and January 15) copies of the Automated Incident Reporting System (AIRS) incident alerts that involve threats and/or acts of violence against any Judge or the ODAR hearing office. The Employer shall only delete information prohibited by law from disclosure.

C. The Employer shall promptly inform the Judge of any actual or known threat made by telephone, mail, personal contact, or by any other means, against him/her. The local association representative (LAR) shall also be informed of the specifics of the threat if not precluded by privacy interest expressed to the HOCALJ or designee by the Judge

against whom the threat was made. The threatened Judge and the LAR shall be provided with a copy of the AIRS Incident Alert, as soon as practicable. The Judge and the LAR shall receive updated information on the threat until the Employer determines that no additional actions will be taken by the Employer. The Employer will notify the Judge and the LAR when it determines that no further action will be taken. The Employer shall only withhold the information prohibited by law from disclosure when providing the Judge and the LAR with information regarding the threat; however, the name of the person making the threat shall not be withheld.

D. The Employer will comply with the provisions of Article 29 and its sidebar applicable to ODAR Field Offices. It is the intent of the Parties that Section 2(D) of this Health and Safety Article will apply prospectively to hearing office moves for which an initial Occupancy Agreement (OA) is signed after the date the National Agreement is in effect. This Article is subject to the grievance procedure.

E. The AALJ or the Health and Safety Labor Management Committee may submit recommendations to the ODAR concerning health, safety, and security issues that reasonably affect bargaining unit employees for its consideration and, as appropriate, for presentation to the SSA/GSA in any renegotiations of the Space Allocation Standard for OHA Field Offices. The ODAR will solicit any recommendations from the AALJ at least 60 days in advance of submitting recommendations to SSA.

F. The Employer shall provide Judges, when requested in advance, an emergency use cellular phone for hearing trips to remote sites. All Judges will be given a copy of the cellular phone usage policy on an annual basis.

Section 3

A. The Judges are encouraged to inform the Employer of any unsafe or unhealthy practice, equipment, or condition, which might represent a health and safety hazard.

B. The Employer shall ensure a response to Judge reports of hazardous conditions and will investigate within twenty-four (24) hours for imminent dangers, three (3) working days for potentially serious conditions, and normally twenty (20) working days for other safety and health considerations. However, an investigation may not be necessary if through normal management action and with prompt notification to Judges, the hazardous condition identified can be abated immediately.

C. The Employer shall ensure no Judge is subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of unsafe or unhealthy working conditions, or other participation in Employer occupational safety and health program activities.

D. In accordance with 29 C.F.R. Part 1960, when exposure requires immediate solution and it is not possible to obtain Employer concurrence beforehand, then the Judge may leave his or her duty station, notify the Employer, and hold himself or herself available for

work under appropriate working conditions. When these procedures are followed, the Judge shall continue to be paid during this period without any charged leave.

E. When the Employer conducts its semi-annual office safety inspection, the LAR or designee shall be notified and invited to accompany management on the inspection. Further, the Employer will ensure that the LAR or designee is notified and invited to accompany management on all other SSA-controlled inspections of Employer workplaces, except when that would pose a hazard to the LAR or designee. The Employer will not pay for travel and per diem for any inspections described under this subsection E.

F. To the extent the Employer has control, there will be no applications of insecticides during work hours in leased space. In SSA-controlled buildings, there will be no application of insecticides during work hours. Whenever pesticides are used in a large scale application, the designated health and safety representative, as well as the employees, will receive advance notice. Individuals with special health needs will be reasonably accommodated.

G. To the extent the Employer has control, there will normally be no applications of construction/renovation/maintenance/cleaning chemicals during work hours in leased space. In SSA-controlled buildings, there will normally be no application of construction/renovation/maintenance/cleaning chemicals during work hours. Such chemicals include paint, carpet glue, HVAC cleaning agents and similar construction like chemicals. However, there may be situations where chemical applications or painting may be done during the workday in isolated areas without disruption to the work environment. In this situation, the designated health and safety representative, as well as the employees, will receive advance notice. Individuals with special needs will be reasonably accommodated.

H. When the duress alarms are tested, the LAR or designee from the same office shall be notified of the testing and shall be provided with a written report of the testing. If an individual alarm needs to be repaired, the LAR or designee shall be notified, and the LAR or designee shall be provided with the written results of the repair.

Section 4 - Health and Safety Committee

A. Pursuant to this Agreement, the Health and Safety Labor Management Committee (HSC) shall be continued. The Committee shall meet to exchange information, study, discuss, and provide recommendations for improving health and safety measures within the ODAR pursuant to this Agreement and applicable law, government-wide regulations, and Executive Orders.

B. The Health and Safety Committee shall consist of three (3) Judges appointed by the AALJ President and three (3) management representatives. The AALJ and the Employer shall each designate one of their committee members to serve as a Co-Chairperson of the

Health and Safety Committee. The Employer shall consider inviting a representative from the Office of Protective Security Services to all Committee meetings.

C. The Committee will establish the ground rules under which it will operate. The Committee will meet quarterly for no more than two (2) days. Three (3) meetings will be held in person and one (1) meeting will be held utilizing appropriate technology as determined by the Employer. At the option of the Employer, the fourth meeting may be held in person. The proposed agenda items shall be forwarded to the Chief Administrative Law Judge by the Co-Chairs thirty (30) working days prior to these meetings.

D. ODAR will authorize taxpayer-funded union time consistent with Article 9 of this Agreement for AALJ participants to prepare for and participate in committee meetings.

E. The existence and operation of this Committee does not constitute a waiver of any of the AALJ's statutory rights to information, consultation, or negotiations. The activities of the Committee will not replace the ODAR's responsibility to provide appropriate notice and bargain to the extent required by 5 U.S.C. Chapter 71.

F. The existence and operation of this Committee does not alter the authority of the Employer to determine its internal security practices.

Section 5

The Employer will make every reasonable effort to provide workspace that comports with OSHA and ANSI standards and, in doing so, may consider other generally acceptable standards, to the extent that such standards do not conflict with OSHA and ANSI standards or with each other. Should the Employer decide to change Judge work space including ergonomic furniture, the Employer will provide notice and bargain to the extent required by 5 U.S.C. Chapter 71.

The Employer shall take reasonable precautions to ensure the health and safety of Judges who work with Video Display Terminals (VDTs) in the hearing office. Such measures in hearing offices and satellite offices shall include:

A. Providing a gel wrist rest or other appropriate wrist rest for all Judges who request them; wrist rests shall enable the user to maintain a neutral position of the wrist while at the keyboard, and shall be padded and without sharp edges;

B. Providing adjustable foot rests, and chair floor mats of a size designated by the Judge up to 72" by 96" for all Judges who request them;

C. Providing an executive desk with sufficient surface area to permit adequate workspace to breakdown and review multiple claimant files and references (statutes, regulations, etc.) and other reasonable and necessary equipment;

D. Providing an electronic, ergonomically adjustable computer table (distinct and separate from the aforementioned desk) with sufficient surface area that shall accommodate comfortable (and ergonomically proper) positioning of the screen and keyboard, providing adequate work space, and providing adequate clearance under the work surface to accommodate the Judge's legs in a normal upright seated position;

E. Providing, in addition to a high back Judge's chair, an ergonomic chair with five legs, swivel capacity of 180 degrees, fully adjustable and controls easily operated, seat height adjustable from approximately 16 to 20.5 inches, back height three-quarter to full, adjustable incline of back and seat, adjustable lumbar support, free of sharp edges or protrusions, seat and back cushions with a covering which is easily cleaned, controls readily accessible from a seated position, front edge of seat pan rounded downward, seat pan 15 inches wide and 17 inches deep, upholstery will be compressible at a minimum in the range of approximately ½ inch to 1 inch; and

F. Providing ergonomic keyboards and voice recognition software applications for all Judges at their request.

Section 6

These provisions only apply to GSA leased space:

A. The Employer agrees to make reasonable efforts to provide healthful indoor air and water quality by conforming to laws, regulations and/or policies issued by federal agencies such as OSHA, EPA, the General Services Administration (GSA), and SSA Central Office technical experts and Industrial Hygiene Staff.

B. On-site investigation/inspections shall be conducted when there is reasonable cause to suspect an air or water quality problem exists in the work environment. These investigations/inspections shall be conducted by trained SSA personnel, representatives of other federal agencies such as GSA, Public Health Service, OSHA, etc., or by trained contract personnel from the private sector under contract to the Employer through SSA technical experts and Industrial Hygiene Staff.

C. When inspections of the heating, ventilation, air-conditioning, or water systems are conducted, the criteria of the GSA Federal Management Regulations and the American Society of Heating Refrigeration and Air-Conditioning Engineers shall apply.

D. When investigations of indoor air quality are conducted, the protocols of OSHA, EPA, Centers for Disease Control, and Industrial Hygiene Staff shall be complied with to the extent possible. As the inspectors deem appropriate, standard air quality tests may include measurement of carbon monoxide, carbon dioxide, formaldehyde, mold, asbestos, temperature, humidity, and other air borne pollutants. Additional tests may be conducted as indicated by inspection of the work site and/or test results obtained from the basic protocol.

E. When inspections or test results reveal the presence of an air or water quality problem, the Employer shall take appropriate measures to mitigate the problem to meet the standards and guidelines cited in (A) of this section. During the mitigation period, the Employer may direct Judges to relocate to alternate work locations or may allow Judges to work at their regular ADS until such problems are resolved.

F. Copies of all test results shall be provided to the AALJ Co-Chairperson of the Health and Safety Committee and the appropriate AALJ Regional Vice-President within a reasonable time after receipt by the Employer.

G. The AALJ shall be given a reasonable opportunity to have an inspector of its choosing examine water and air quality. It is understood that the Employer shall be provided with advance notice of the inspection. The Employer shall not pay any costs associated with the inspection.

Section 7

A. ODAR facilities are smoke-free. In keeping with the Parties' concern for the health, safety, and well-being of all SSA employees, there shall be "no smoking" in any SSA controlled facility. In addition, there will be "no smoking" on any SSA controlled property or premises.

B. The Parties agree that they shall intensify efforts to assist Judges who are interested in breaking the smoking habit. The cost of Employer sponsored and approved programs will be paid by the Employer, not by the Judge. The Employer sponsored programs shall ordinarily be offered during normal duty hours unless not available during duty hours. Programs sponsored by or approved by the Employer shall include or be similar to programs conducted by the American Lung Association or the American Heart Association. The Parties recognize that these programs will be more readily available where the hearing office is located near large SSA installations. Where there are no Employer sponsored programs, Judges may request information on how to locate a smoking cessation class and educational materials such as videotapes, books and pamphlets on smoking cessation from the Employee Assistance Program. Judge participation in counseling or cessation programs related to smoking is strictly voluntary.

Section 8 - Vision Program

A. In accordance with Employer policy, Judges shall only be eligible for Video Display Terminal (VDT) - related eye exams and eyeglasses/contact lenses (including disposable lenses) based upon supervisory certification that the Judge uses a VDT in the course of his or her official duties.

B. If an eligible Judge obtains a prescription from a licensed optical practitioner (e.g., optometrist or ophthalmologist) indicating that the Judge needs special eyeglasses/contact lenses (including disposable lenses) in order to operate a VDT without eyestrain or because of other optical-related problems, the Employer shall reimburse the Judge for

100% of the eye examination in an amount not to exceed $65. In this process, the Judge will present the practitioner with a form, obtained from management, which will indicate that any prescription should only be for VDT use. The practitioner must certify on the form that the eyeglasses/contact lenses (including disposable lenses) are for VDT use. This form must be returned to management.

C. A Judge who has met the conditions listed in (A) and (B) above shall be entitled to a pair of eyeglasses/contact lenses (including disposable lenses) for VDT operation at Employer expense. The Employer will bear the cost up to $200. The Employer will either procure the eyeglasses/contact lenses (including disposable lenses) of the Judge's choice, or will reimburse the Judge upon the presentation of proper documentation. The option will be left to the Employer.

D. Judges shall be entitled to a reasonable amount of excused absence to obtain eyeglasses/contact lenses (including disposable lenses), and VDT eyeglasses/contact lenses examination and fitting, provided that the Judge in fact has an authorized VDT eyeglasses/contact lenses (including disposable lenses) prescription. Normally this will not exceed 2 hours total time for all matters.

E. If the Employer makes changes to the vision program, it will provide notice and an opportunity to bargain to the extent required by 5 U.S.C. Chapter 71.

Section 9

A. The Employer agrees that when a Judge suffers a job-related illness or injury in the performance of his or her duties and reports it to his or her supervisor, he or she will be informed by management on the procedures for filing a claim for benefits under the Federal Employees Compensation Act. Information will also be provided about the type of benefits available, including specific reference to his or her option to file a claim for disability compensation or use accrued leave if he or she is disabled from work.

B. Information on forms, rights, and procedures under Worker's Compensation will be maintained on SSA's Intranet. When requested, the Employer shall provide any Judge, the AALJ President, Vice-President, Regional Vice-President, and Local Association Representative with an electronic link to these forms.

Section 10

As part of the annual review of the hearing office's Physical Security Action Plan (PSAP) and Occupant Emergency Plan (OEP), the Employer will ensure that all Judges are thoroughly familiar with the shelter-in-place plan and the proper means for leaving the building during a suspected fire or bomb threat or similar emergency. When the Employer determines a fire, bomb threat, or similar emergency is reasonably suspected, the Employer will evacuate the Judges to the areas designated in the PSAP/OEP. Under no circumstances will Judges be required to remain at their workstations and search for a suspected bomb.

Section 11

During the open health benefits enrollment period, the Employer agrees to supply information on federal health benefit programs.

Section 12

In each hearing office and permanent remote site, the Employer will maintain adequate first aid supplies. All Judges will have reasonable access to these supplies.

Section 13

When it is necessary for a Judge to leave work and either return home or go to a medical facility because of illness or incapacitation, the Employer shall assist the Judge in arranging transportation.

ARTICLE 24

RETIREMENT AND AWARDS

Section 1 - Pre-Retirement Counseling

A. To assist the Judge in preparation for retirement the Employer has determined that a Judge who is within five (5) years of eligibility for retirement under the Federal Government's retirement rules or is at least fifty (50) years of age shall be authorized a total of twenty-four (24) hours of duty time, inclusive of travel, to attend, at the option of the Judge, in-person, broadcast, or online retirement planning seminars offered by the Employer, the U.S. Office of Personnel Management or other organizations. After age fifty-five (55), a Judge shall be authorized up to eight (8) hours, inclusive of travel, every two (2) years to attend, at the option of the Judge, in person, broadcasts, or online retirement planning seminars offered by the Employer, the U.S. Office of Personnel Management or other organizations. However, a Judge who is fifty-five (55) years of age or older and who has not yet used the initial twenty-four (24) hours, may use those twenty-four (24) hours and then, every two (2) years thereafter may use up to eight (8) hours. No expenses for this training or related travel will be paid by the Employer.

B. A Judge may withdraw any resignation or retirement notice when authorized by law, government-wide rule or regulation, provided that the withdrawal is communicated to the Employer in writing.

Section 2 - Awards

Pursuant to the Administrative Procedure Act, the Employer has determined that it shall not grant any award to a Judge that is related to the duties of a Judge's position or that stems from an assignment of work. This restriction does not preclude other types of recognition such as years of service or retirement.

ARTICLE 25

LABOR/MANAGEMENT COMMITTEE

Section 1 – Introduction

The Parties recognize that a National Labor/Management Committee (LMC) is an important element in the development of successful and effective labor-management relations.

Section 2 – National Labor/Management Committee

The Parties endorse the use of the National Labor/Management Committee to promote the exchange of information and the discussion of appropriate matters of concern. The National Labor/Management Committee will endeavor to:

A. Foster a cooperative and constructive relationship between the ODAR and the AALJ.

B. Ensure that each Party retains all legal, contractual and statutory rights.

Section 3 – Structure of the National Labor/Management Committee

The LMC will consist of five (5) management representatives and five (5) members of the AALJ, including the Chief Administrative Law Judge or designee and the President of the AALJ or designee. The ODAR Chief Administrative Law Judge and the AALJ President, or their designees, will Co-Chair the LMC. The AALJ President will appoint the AALJ members. The Chief Administrative Law Judge will appoint the management members, who shall not be AALJ bargaining unit members. The Co-Chairs or their designees shall prepare action items at the conclusion of each LMC meeting.

Section 4 - National Labor/Management Committee Meetings

The LMC meetings will take place quarterly for two (2) days, at the written request of either Party. The written request shall contain all matters proposed for discussion and shall be forwarded to the other Party at least fifteen (15) days prior to these meetings. Three meetings will be held in-person and one meeting will be held utilizing appropriate video technology as determined by the Employer. At the option of the Employer, the fourth (4^{th}) meeting may be held in person. The location of the meetings will be at ODAR Headquarters. Taxpayer-funded union time for the LMC meetings and preparation will be as provided in Article 9.

ARTICLE 26

NEW JUDGE ORIENTATION

Section 1 – Notification

A. The Employer shall give notice of all new Judges to the AALJ President or designee by providing a list, in electronic format, providing the name, duty station, and appointment date for each Judge. This list will be provided no later than ten (10) working days before the new Judges' report date to their initial duty station.

B. The AALJ shall have the opportunity to address the group of new Judges during the New Judge Orientation class. The AALJ President, Executive Vice President and/or designees shall be provided one (1) hour at the New Judge Orientation class on Wednesday of the first week of group training to address the new Judges during their duty hours. All time spent by the AALJ in connection with this presentation must be taxpayer-funded union time, in accordance with Article 9. Addressing the new Judges shall be in person. The AALJ shall have the right to discuss the contract, current labor-management issues, the laws and regulations on federal sector labor relations and any other subjects not prohibited by law.

ARTICLE 27

JOINT TECHNOLOGY ADVISORY COMMITTEE (JTAC)

A. In order to facilitate the regular exchange of information, recommendations, and initiatives regarding technology between the Employer and the AALJ, the Parties agree to the continuation of the Joint Technology Advisory Committee (JTAC).

B. The JTAC will consist of four (4) members. Two (2) members will be Judges appointed by the AALJ President. The other two (2) members will be management representatives appointed by the Employer. The AALJ President and the Employer will each designate one (1) of their committee members to be a Co-Chairperson for the JTAC.

C. The Parties agree that:

1. the JTAC will meet quarterly; one (1) meeting in-person for three (3) days and three (3) meetings for one (1) day using telephone or video teleconferencing; and

2. the AALJ's JTAC members will be authorized taxpayer-funded union time for committee work, including preparation and travel, pursuant to Article 9, taxpayer-funded union time.

D. The Parties agree that the Co-Chairs of the JTAC will finalize the agenda jointly no later than ten (10) calendar days prior to the date of the meeting, unless mutually agreed otherwise. The JTAC will review and make recommendations regarding the efficacy and appropriate use of video teleconference technology and other technology in the hearing office.

E. Continuance of this committee does not constitute a waiver of any of the AALJ's statutory rights to information, consultation, or negotiations. The activities of the JTAC are not envisioned by the parties as replacing the Employer's responsibility to provide appropriate notice and the opportunity to bargain to the extent required by 5 U.S.C. Chapter 71. Continuance of this committee is not an election by the Employer to bargain with the AALJ on the technology, methods, and means of performing work.

ARTICLE 28

SENIOR JUDGES

Section 1

Pursuant to 5 C.F.R. §930, ODAR may decide to temporarily re-employ retired Administrative Law Judges. A Senior Judge is defined in 5 C.F.R. §930.202 as a retired administrative law judge who is re-employed under a temporary appointment under 5 U.S.C. §3323(b)(2) and 5 C.F.R. §930.209. Re-employment of Senior Judges by ODAR shall be in accordance with Office of Personnel Management (OPM) regulations. Senior Judges may work either full-time or part-time at the discretion of the Employer.

Section 2

Hours of duty, administrative support services, and travel reimbursement for Senior Judges will be determined by the Employer in accordance with the same rules and procedures that are generally applicable to other employees.

Section 3

The Parties agree that the provisions of the following Articles or provisions of this agreement are not applicable to Senior Judges: Reassignments, Reduction in Force, Retirement, Office Space, and Seniority.

Section 4

A Senior Judge shall have reasonable access to available office space, furniture, facilities and equipment. If office space is not available, work at an alternate site may be arranged.

Section 5

The President of the AALJ shall be notified when a request for a list of eligible candidates for the position of Senior Administrative Law Judge is requested from OPM. Whenever a Senior Administrative Law Judge is re-employed by the Agency, ODAR shall notify the President of AALJ of that fact and the office to which that Senior Judge shall be assigned.

SOCIAL SECURITY

Office of Disability Adjudication and Review

September 2, 2010

LETTER OF INTENT

To: Mark A. Brown, Chief Negotiator
IFPTE, AFL-CIO & CLC

Re: Senior Judges

The Employer intends to continue to follow the current practice of placing Senior Judges in any unoccupied, vacant office, if available. If an unoccupied, vacant office is not available, other arrangements may be made, e.g., an alternative site in or out of the office.

Signed: Kathleen McGraw
K. McGraw, Management Chief Negotiator

OFFICE OF DISABILITY ADJUDICATION AND REVIEW

ARTICLE 29

FACILITIES AND SERVICES

Section 1 – Definitions

A. When requesting or providing space for ODAR, the Employer will comply with the provisions of Article 29 and its Sidebar.

B. Hearing Office

A hearing office is the primary duty station for ODAR's Judges. Each hearing office has a defined geographic service area. The hearing office is a space that has been assigned to or leased for ODAR by GSA, located in a city under the guidance of and subject to formal approval processes within the Office of the Deputy Commissioner for Disability Adjudication and Review (DCDAR) and other components of the Employer.

C. Satellite Offices

A satellite office is a subordinate permanent duty station aligned with a specific hearing office and administratively managed as a branch of the office. A satellite office is located in a city subject to formal approval processes within DCDAR and other components of the Employer and for which space has been assigned to or leased for ODAR by GSA. Such an office normally has a limited staff, usually consisting of one or two Judges and a few support staff.

D. Remote Site

A remote site is an unstaffed space located within the defined service area of a hearing office and administratively managed by that office's management team. Hearings are held intermittently at remote sites. To hear cases, Judges either travel to the location or use video teleconferencing from their normal duty station. There are two types of remote sites - permanent and temporary.

1. Permanent Remote Site

A permanent remote site is a space that has been assigned to or leased for ODAR by GSA, in a city within the defined service area of a hearing office. Such sites are established and located under the guidance of and subject to formal approval processes within DCDAR and other components of the Employer.

2. Temporary Remote Site

A temporary remote site is a location where hearings are held in spaces not under a GSA lease or assignment to ODAR. Typically, such sites are in spaces rented under a daily or weekly rate under the Hearing Office Chief Administrative Law Judge's or Hearing Office Director's local purchase authority or in spaces made available to ODAR at no charge.

Section 2 – Office Openings, Moves, Relocations, Expansions, and Renovation

A. Existing locations will not be modified prior to lease expiration, expansion, or relocation to meet the requirements enumerated in this National Agreement. If a lease is extended or renewed, no modification to the existing space will be required to meet the requirements of Article 29 and its Sidebar.

B. For hearing office, permanent remote site, or satellite office openings, moves, relocations, expansions, or renovations, the Employer agrees to reasonably and timely:

1. Transmit an informational copy of the Request for Space (SF-81) package, together with all attachments, amendments or equivalent, to the AALJ Regional Vice President, at the point in time that it is transmitted to the appropriate Office of the Regional Commissioner for processing;

2. In the event of a relocation of an existing hearing office from a central business area, the Employer agrees to provide the respective AALJ Regional Vice President with a copy of the Employer's written justification to GSA that sets forth facts and considerations sufficient to demonstrate that first consideration has been given to the central business area and to support the determination that the Employer program functions involved cannot be efficiently performed in the central business area. The information shall be provided to the AALJ at the same time it is submitted to GSA;

3. Provide the Local Association Representative (LAR) a copy of any new or supplemental lease agreement or occupancy agreement, at the same time it is made available to the HOCALJ;

4. Provide the LAR a drawn-to-scale copy of any new site plan (with an appropriate scale reference), space shell/floor plate, or elevations, once they are made available to the HOCALJ;

5. Provide the LAR a drawn-to-scale copy (with an appropriate scale reference) of the new or revised floor plan for an office, once it has been made available to the HOCALJ;

6. Provide the LAR with the name, office address, e-mail, fax number, and telephone number of the ODAR Regional Office's contact person;

7. Receive suggestions and comments from the LAR during the site identification process;

8. At the discretion of the Employer, AALJ's designated representative may be invited to accompany the Employer's representative, at the AALJ's expense, on a site survey in connection with acquisition of office space after signing the GSA's Statement of Conflict of Interest and Nondisclosure (See Appendix A); and

9. Advise the LAR of the date on which management has completed the site surveys.

C. AALJ's designated representative shall be provided copies of the GSA's site solicitation package, proposed lease, and signed lease regarding an office space acquisition or relocation action in a timely fashion upon receipt by the ODAR, but not later than fifteen (15) working days after receipt.

D. The AALJ shall, in a reasonable and timely fashion, be advised of the Employer's decision to permanently close a hearing office, permanent remote site, or satellite office.

E. Neither Party waives any right to bargain as provided by law or this Agreement.

Section 3 – Office Space Planning

A. In the acquisition of hearing office space, whether by expansion, relocation, or new hearing offices, or in the event of lease expiration, office space calculations involving space, location, equipment, and other factors relating to a Judge's use or presence will comply with the provisions of Article 29 and its Sidebar applicable to ODAR Field Offices.

B. The Employer will provide notice of any changes to current working conditions affecting Judges and bargain to the extent required by 5 U.S.C. Chapter 71.

C. All ODAR space plans must be consistent with applicable local and state fire codes.

D. The ODAR has determined that intrusion detection (security) systems and duress alarms will be installed and monitored consistent with the provisions of Article 29 and its Sidebar applicable to ODAR Field Offices.

E. Each Judge in a hearing office and a satellite office as defined in Section 1 shall be provided an individual private office consistent with the provisions of Article 29 and its Sidebar applicable to ODAR Field Offices.

F. In each hearing office, permanent remote site, and satellite office, the Employer shall make available to the Judges hearing rooms for the performance of their duties. Each hearing room shall comply with provisions of Article 29 and its Sidebar applicable to ODAR Field Offices, but specifically each hearing room shall be constructed with materials and by design to meet a minimum sound transmission class (STC) of 50. All ductwork within a hearing room shall be baffled to meet the minimum sound requirements.

G. Permanent remote sites will include at least one hearing room.

H. Management has determined that the HOCALJ will be responsible for locating temporary hearing sites. The following reflects the ODAR policy on the types of spaces the HOCALJ is expected to explore:

    a. federally controlled space (i.e., federal facilities for other government agencies);

    b. state government controlled space (i.e., state agency or court facilities);

    c. local government controlled space (i.e., municipal government or court facilities);

    d. public educational institution space (i.e., college or local libraries); or

    e. other spaces deemed to meet the ODAR's needs by local hearing office management.

I. The use of hotels/motels at remote sites is the least preferable and the alternatives listed in 3(H) should be first secured when available. If a hotel/motel site is used it must be appropriate for conducting hearings, e.g., a lockable conference room.

Section 4 – Procedures for office openings, moves, relocations, expansions, and renovations

A. There will be a general orientation meeting with Judges to review the procedures, dates, times, and other aspects of the hearing office, permanent remote site, or satellite office opening, move, relocation, expansion, or renovation. This meeting will take place as soon as practicable in advance of the event.

B. Selection of individual private offices by the Judges assigned to the site shall be made from among the offices designated on the floor plan for Judges. The order of selection shall be according to the agreed-upon seniority procedure, in accordance with Article 22.

C. If a Judge's personal materials and/or files will be moved due to a hearing office or satellite office opening, move, relocation, expansion, or renovation, the Judge may receive a reasonable amount of duty time, up to two work days total, away from assigned

duties, to pack and unpack those items. Packing, unpacking, setting up, and moving of any furniture/equipment and personal items will be done in a way that does not jeopardize the health and safety of Judges.

D. The Employer is not responsible for moving a Judge's personal furniture or decorative items or the loss or damage resulting from moving the furniture or decorative items.

E. If the applicable Physical Security Action Plan (PSAP) and/or the Occupant Emergency Plan (OEP) are changed as a result of a hearing office, permanent remote site, or satellite office opening, move, relocation, expansion, or renovation, Judges will be briefed on the updated PSAP and/or OEP within thirty (30) days of occupancy.

F. Following the completion of the hearing office or satellite office opening, move, relocation, expansion, or renovation, the Employer will schedule an evacuation drill, shelter in place drill, and a health and safety inspection within forty-five (45) calendar days.

Section 5 – Private office furnishings and décor

A. Private office furnishings for the Judges will be procured or replaced in accordance with the Employer policies, promulgated in its Administrative Instruction Manual System (AIMS) and laws, and government-wide rules and regulations, within budgetary constraints. All furnishings, equipment, desks, chairs, tables, and bookcases shall be of a class and quality established in AIMS 04.15.05. Where such furniture and furnishings are depicted in ODAR authorized use catalogs and there is a choice among like items, the individual Judge may make the selections for his or her private office.

B. Judges will be provided one executive-style desk of unitized wood construction, as specified in the AIMS, along with one traditional high-backed "ALJ" chair, or suitable alternative from mandatory Federal supply sources. A computer table and an ergonomic chair will be provided. A table, bookcase, locking file cabinet, U.S. flag display, and two visitor's chairs will also be provided.

C. The ergonomic features of the Judge's private office furniture are found in Article 23 of this Agreement, entitled Health and Safety.

D. With the concurrence of local management, Judges may bring in a personally-owned desk and/or chair to be used in their offices. Personal decorative objects and items will continue to be allowed within existing standards. Use of personal electrical appliances must comply with Government-wide policies and applicable lease agreements.

E. Window coverings for Judge offices will be provided as specified in the lease agreement, subject to any building standard limitations.

F. Each Judge shall be provided with a telephone with voicemail features.

Section 6 – Hearing room furnishings and assignments

A. To ensure the most cost effective scheduling of hearings and use of available resources, management has determined that the hearing rooms in an ODAR office are common areas and available for use by any Judge. Absent an agreement by the local Judges acceptable to the Employer, hearing room usage will be scheduled in a manner determined by the hearing office management team that will maximize the use of these resources. The holding of hearings by Judges will preempt the use of a hearing room for office or other employee or group meetings.

B. Management will provide a traditional high-backed "ALJ" chair in each hearing room, subject to budgetary constraints. Judges needing alternative seating will be allowed to move one of their Employer-provided chairs from their private office into a hearing room for their hearings.

C. Railings of 2½ feet, hung down from the top of the bench, will be provided in each hearing room; the gate will have a latch on the inside, toward the Judge.

Section 7 – Parking for Hearing Offices

A. The current parking situations for ALJs in the approximately one hundred sixty-two (162) hearing offices and seven (7) satellite offices shall remain in place. However, when an office lease expires, an office expands its current space, or an office is relocated, changes in the distribution of free parking for ALJs may be made by the Employer consistent with Government-wide regulations in 41 C.F.R. §102-74.305, concerning the criteria for assignment of parking spaces, and OM Memorandum dated June 7, 2000.

B. For offices with large numbers of travel dockets, a designated "loading zone" area may be appropriate. The ODAR agrees to work with the Lessor and/or GSA to try to obtain such a designation near an appropriate building entrance or within the building's garage, if any, when requested by the HOCALJ. The Parties recognize that local codes and traffic regulations may impact on the possibility of receiving such a designation on a public street.

Section 8 – Other Services

A. Badges

1. The Employer has determined that it will provide the Judges with the "Special Purpose" badges, when necessary, and HSPD-12 badges.

2. The Employer has determined that the HOCALJ will make reasonable efforts to obtain building-specific access badges for Judges, when available and necessary.

B. Telephone Directories - The ODAR agrees to continue to maintain and update an electronic directory of all hearing offices with the names of all Judges in each hearing office along with the address, fax number, and telephone number for each office. The link to this information will be provided to each Judge.

Sidebar

When the Agency opens, moves, relocates, expands, or renovates an office, the Employer shall follow the terms and conditions of the March 1998 Space Allocation Standard (SAS), the January 2008 Settlement Agreement, and the April 20, 2009 e-mail from Associate Commissioner Milt Beever to AALJ President D. Randall Frye (regarding hearing room workgroup) that relates to conditions of employment for ALJs, until such time as the Employer and the AALJ bargain any changes in the SAS to agreement or through the impasse procedures to the extent required by 5 U.S.C. Chapter 71 and/or this Sidebar.

CERTIFICATE OF NONDISCLOSURE

Unauthorized Disclosure of Procurement Information

The proper custody, use, and preservation of official information related to procurements (validation, evaluation, selection proceedings, negotiations, etc.) cannot be over emphasized. It is essential that personnel associated with procurement actions as an activity representative strictly comply with the applicable provisions of the law including, but not limited to, section 1905 of title18, United States Code, and section 27 of the Office of Federal Procurement Policy Act (OFPP Act) (41 U.S.C. 423).
Section 1905, of title 18, U.S.C., provides as follows:

> "Whoever, being an officer or employee of the United States or of any department or agency thereof, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 USC 1311-1314), publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work or apparatus, or the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000, or imprisoned not more than one year, or both, and shall be removed from the office or employment."

Section 27 of the OFPP Act contains provisions concerning prohibited conduct by procurement officials during the conduct if an agency procurement as well as requirements for reporting violations or possible violations of the section and applicable implementing regulations. There is a continuing obligation under section 27 not to disclose proprietary or source selection information relating to procurements for which an individual serves as a procurement official, as well as a requirement to certify upon leaving the Government during the conduct of a procurement that proprietary or source selection information will not be disclosed after leaving the Government. Individuals serving as evaluators shall not reveal any information to anyone who is not also participating in the same proceedings, and then only to the extent that such information is required in connection with such proceedings. Such information is classified as proprietary or source selection (procurement sensitive) information. The dissemination of information in this category to other parties will be at the sole discretion of the contracting officer. Vendors proposals, identity of offerors, source selection evaluation board documents, and similar materials will be handled and discussed on a "need-to-know" basis only. Under no circumstances may proposals, the source selection plan with the methodology for use in evaluating and selecting property/services, or source selection evaluation board reports be divulged without authorization from the contracting officer.

Any unauthorized disclosures contrary to the foregoing provisions may result in appropriate disciplinary or other action, such as the penalties set forth in section 1905 of Title 18, U.S.C., section 27 of the OFPP Act, or other provisions as may be deemed applicable. To indicate your awareness of the above restrictions, please sign and date this memorandum.

_____

Signature Date

_____

Position Telephone Number