



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

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Virtual Hearings in Agency Adjudication

What is a virtual hearing?

Individuals can participate in agency adjudicative hearings in person (from the same physical space as an adjudicator) or remotely (by telephone or video).

Video hearings traditionally required agencies to equip hearing rooms with professional-grade video and audio equipment. Remote participants also needed access to a similarly equipped space, which often required travel to a remote hearing site in an agency facility.

With advances in technology and telecommunications, hearings can now be conducted “virtually” using internet-based videoconferencing software such as Zoom, Microsoft Teams, or Cisco WebEx.

Virtual hearings allow participants to join from their home using their own personal equipment, from an attorney’s office, or from another location, without the need to travel to a special video-equipped hearing site.

What legal requirements govern virtual hearings?

The use and conduct of virtual hearings must comply with due process and generally applicable policies governing matters such as transparency, privacy, recordkeeping, accessibility for people with disabilities, and information security.

Agency- and program-specific statutes, rules, and precedents may also impose additional requirements, especially regarding when a remote proceeding is permissible or whether a party can request or object to participating remotely.

What are best practices for virtual hearings?

ACUS [Recommendation 2021-4](#) sets out best practices, described below, for establishing and improving virtual hearing programs in accord with principles of fairness and efficiency and with due regard for participant satisfaction.

What should agencies consider when developing policies on virtual hearings?

Agencies should consider the potential benefits and costs of using virtual hearings for the adjudications they conduct. Questions to consider include:

- Can virtual hearings be used without affecting procedural fairness or substantive outcomes?
- Will virtual hearings result in benefits to agencies and parties such as reduced travel costs and wait times?
- Will virtual hearings result in costs such as those associated with obtaining technology and providing technical support and training?
- How will virtual hearings affect access to justice for individuals who belong to underserved communities, such as low-income individuals, people with disabilities, and individuals with limited English proficiency?
- Will virtual hearings affect the representation of parties, communication between hearing participants, or adjudicators’ ability to assess credibility?

How can agencies facilitate virtual hearings?

Best practices for managing and conducting virtual hearings include:

- Developing guidelines for conducting virtual hearings and posting them prominently online;
- Providing information in pre-hearing notices about participating in virtual hearings;
- Ensuring adjudicators have the space, equipment, training, and technical and administrative support they need to conduct virtual hearings; and
- Providing general or pre-hearing training sessions at which agency staff can familiarize non-agency participants with virtual hearings.

How should agencies assess virtual hearing programs?

Agencies should measure how virtual hearings compare with proceedings conducted using other formats, including whether the use of virtual hearings affects procedural fairness or produces different substantive outcomes. Agencies should also solicit feedback and monitor technological and procedural developments to ensure remote participation options remain current.

Additional Resources

ACUS Rec. [2021-4](#), Virtual Hearings in Agency Adjudication
ACUS Rec. [2014-7](#), Best Practices for Using Video Teleconferencing for Hearings
ACUS Rec. [2011-4](#), Agency Use of Video Hearings: Best Practices and Possibilities for Expansion
Jeremy Graboyes, [Legal Considerations for Remote Hearings in Agency Adjudications](#) (2020)
Fred I. Lederer and the Center for Legal & Court Technology, [Analysis of Administrative Agency Adjudicatory Hearing Use of Remote Appearances and Virtual Hearings](#) (2021)