

**NATIONAL ORGANIZATION OF
SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES
(NOSSCR)**

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Executive Director
Barbara Silverstone

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Administrative Conference of the United States
Committee on Adjudication
1120 20th St NW, Suite 706 South
Washington, DC 20036

Jeremy Graboyes, Staff Counsel
jgraboyes@acus.gov

Dear Mr. Graboyes,

Thank you for the opportunity to observe the proceedings for the committee's project on Virtual Hearings in Agency Adjudication. NOSSCR's thoughts on the topic are based on our members' experiences representing claimants in adjudications before the Social Security Administration (SSA).

We endorse [Ann Biddle et al.'s comments](#) about ensuring equitable access to hearings for low-income people, people with disabilities, and others who may lack the technology or other resources that allow for full participation in virtual hearings.

As NOSSCR urged ACUS in [comments](#) on Recommendation 2014-7, "Best Practices for Using Video Teleconferencing for Hearings," we again encourage the Committee to add a clear statement to the recommendation for this project that agencies must allow parties to refuse video hearings. This is consistent with [ACUS Recommendation 2011-4](#), which included "Use VTC on a voluntary basis and allow a party to have an in-person hearing or proceeding if the party chooses to do so" on its list of best practices for video hearings.

Although properly conducted virtual hearings can be useful for some disability claimants and representatives, they are not accessible for certain people with disabilities who may not understand that—or why—a person is speaking to them via a computer or other screen. Certain impairments may be more easily observed in person by an Administrative Law Judge (ALJ). And although in some circumstances a representative might be able to supply technology and meeting space for a claimant who lacked it, the covid pandemic has shown that this is not always safe or feasible.

In December 2019, SSA [withdrew](#) the portion of its proposed rule that would have removed claimants' ability to opt out of virtual teleconference (VTC) hearings, acknowledging "the commenters' near-universal preference for our current policy, which allows a party to a hearing before an ALJ to opt out of

appearing by VTC.” ACUS’s recommendation on virtual hearings should similarly reflect this preference and include a statement that virtual hearings should always be voluntary, in lieu of the suggestion in lines 154-6 that agencies consider whether to allow participants to opt out.

Additionally, rather than the presumption in lines 157-165 that hearings are open to the public unless circumstances dictate otherwise, the recommendation should allow for agencies to determine that none of their hearings should be public if they all involve information that the parties (or party, in non-adversarial SSA claims) would generally want to be kept private. This would better protect the identities and medical information of claimants for Social Security disability and other benefits.

Thank you for considering our comments and concerns.

Sincerely,

Barbara Silverstone
Executive Director