



COMDTINST 5900.7B

17 JUN 1988

COMMANDANT INSTRUCTION 5900.7B

Subj: Administrative Law Judge Functions; logistic support
and administration

1. PURPOSE. This Instruction provides direction for the support and administration of Administrative Law Judge Offices.
2. DIRECTIVES AFFECTED. COMDTINST 5900.7A is cancelled.
3. MISSION.
 - a. Suspension and Revocation Hearings. Administrative Law Judges appointed for duty with the Coast Guard are required to conduct formal hearings on matters arising under 46 U.S.C. Sec. 7701-7705; or, under any other navigation or marine safety law or regulation providing for the suspension or revocation of licenses, certificates, or documents issued by the Coast Guard or predecessor authorities. These Judges are further required to render decisions and enter orders of suspension or revocation of such licenses, certificates, and documents, as prescribed by 46 CFR Part 5, and the Administrative Procedure Act, 5 U.S.C. 551, et seq.
 - b. Civilian Grievances and Adverse Actions. Administrative Law Judges, when assigned by Commandant (G-CJ), shall serve as Grievance Hearing Examiners in Civilian Employee Grievance proceedings prescribed in 5 CFR Part 771, as authorized by 5 U.S.C. Sec. 1302, 3301, 3302, and 7301, and implemented by Chapter 771, Federal Personnel Manual, and such other current directives and instructions as may be appropriate. Administrative Law Judges may also be designated to receive an employee's oral reply to an adverse action notice pursuant to

(cont'd) 5 U.S.C. Sec. 7501, et seq and 5 CFR Part 752 per COMDTINST M12750.4
When so designated, the Judge shall prepare written findings, conclusions, and recommendations in the matter for the deciding official.

- c. Equal Access to Justice Claims. Administrative Law Judges shall rule on applications for award of attorney fees and other expenses, filed by respondents who prevail in Coast Guard license, certificate, or document suspension and revocation proceedings, as provided by the Equal Access to Justice Act, 5 U.S.C. Sec. 504, (P.L. 96-481, 94 Stat. 2325; P. L. 99-80, 99 Stat. 183). In adjudicating the merits of such applications, including claimants' eligibility and the amounts to be awarded, and rendering written decisions thereon, Departmental regulations contained in 49 CFR Part 6 shall be observed and followed.
- d. Civil Rights Act Hearings. When designated by Commandant (G-CJ), Administrative Law Judges shall conduct hearings under Title VI of the Civil Rights Act of 1964 with respect to nondiscrimination in Federally-assisted programs of the U.S. Coast Guard. Proceedings shall be conducted and concluded in accordance with the provisions of 33 CFR Part 24.
- e. Deepwater Ports Hearings. When specifically designated by the Commandant (G-C), with prior concurrence of the Secretary, an Administrative Law Judge shall conduct hearings at designated locations, on specific and material factual issues as directed, in accordance with the provisions of the Deepwater Port Act of 1974, 33 U.S.C. Sec. 1501, et seq. (P.L. 93-627), and 33 CFR Part 148.
- f. Outer Continental Shelf Lands Act Claims. An Administrative Law Judge shall conduct an administrative review of the denial of a claim filed under applicable provisions of the Outer Continental Shelf Lands Act Amendments of 1978, 43 U.S.C. Sec. 1801, et seq. (P.L. 95-372), when such claim is referred to the Administrative Law Judge by the Commandant (G-C), in accordance with 33 CFR Part 136.
- g. Membership in Local Hearing Boards. The Commandant (G-C) may designate Administrative Law Judges to serve as the chair of local Hearing Boards established for the purposes set forth in 33 CFR Part 125. (Waterfront Facilities, Port Security).

4. ADMINISTRATION. Administrative Law Judges are under the exclusive administrative control of the Commandant. Correspondence and communications relating to the performance of the mission shall be routed to the Commandant (G-CJ). All applications for leave and matters relating to internal administration including requests for training shall be submitted directly to the Commandant (G-CJ).
5. REQUESTS FOR ADMINISTRATIVE LAW JUDGES.
 - a. Suspension and Revocation Hearings.
 - (1) Intra-district Requests. Requests for the services of an Administrative Law Judge within the Judge's assigned district, in connection with suspension and revocation proceedings against mariners' licenses, certificates, or documents, should be made directly to the Judge by the cognizant investigating officer or commanding officer.
 - (2) Inter-District Requests. Requests for an out-of-district Administrative Law Judge to preside at suspension and revocation hearings will be made to Commandant (G-CJ) by the cognizant investigating officer or commanding officer.
 - b. Civilian Grievances and Adverse Actions. All requests for assignment of a Judge to conduct civilian employee grievance or adverse action proceedings shall be made to Commandant (G-CJ) by the appropriate area, district, maintenance and logistics command, or Headquarters official.
 - c. Other Hearings. Other requests for Administrative Law Judges will be made to Commandant (G-CJ) by the appropriate official.
6. TRAVEL.
 - a. Intra-district travel orders.
 - (1) District commanders are responsible for issuing temporary additional duty travel orders to Administrative Law Judges for travel within the district. A copy of all such orders issued to an Administrative Law Judge shall be forwarded to Commandant (G-CJ).

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- (2) To reduce paperwork and in order to improve administrative efficiency, temporary additional duty travel orders to visit and revisit points within the district should be issued on a annual or semi-annual basis and such travel shall be chargeable to the district travel allotment. Travel will be conducted and documented in accordance with DOT and Coast Guard Travel Regulations.

b. Inter-District Travel.

- (1) Commandant (G-CJ), from time to time, direct the temporary transfer of an Administrative Law Judge from one district to another to conduct one or more hearings or to participate in any other authorized activity. It is expected that very little or no prior notice of such temporary assignment may be given.
- (2) Orders involving travel between districts will be issued by Commandant (G-C), chargeable to Headquarters' travel allotment.

7. LOGISTIC SUPPORT. Cognizant district commanders shall furnish the following facilities and services to Administrative Law Judges.

- a. Hearing Rooms. District commanders shall provide the permanently assigned Administrative Law Judge with an appropriate hearing room, suitably furnished. The facility will be equipped with a speakerphone to permit telephonic testimony, and have adequate space to sequester witnesses. Commanding officers of marine safety offices and/or marine inspection offices, where no Judge is assigned, will provide adequate facilities to conduct hearings, sequester witnesses, and permit telephonic testimony.
- b. Office space. District commanders shall provide a separate office for each permanently-assigned Administrative Law Judge. Adequate office for clerical staff and office files shall also be separately provided.
- c. Operating Expenses. District commanders shall provide heat, light, communications, security, transportation, pay, supply, and reporter's and interpreter's services at hearings.

- d. Clerical assistance and equipment. District commanders shall assign one full time legal technician (typing) to each Administrative Law Judge. Each Administrative Law Judge Office shall be furnished with word-processing and photocopying equipment.
 - e. Storage of Case Files. It is not expected that Administrative Law Judges will maintain files of the complete case records (testimony, shorthand notes, exhibits, documents, etc.) once the hearings in a particular case have been concluded and the decision rendered. Case files shall be maintained at the investigating officer's unit. Judges shall maintain in their files a copy of each decision rendered, together with an alphabetic card index containing a case summary and docket information.
 - f. Correspondence. Communications relating to logistic matters shall be routed to the cognizant district commander, who is authorized to take final action, unless, in the district commander's judgment, the matter is one that should come to the attention of Commandant (G-CJ).
8. ACTION. Area and district commander's commanders of maintenance and logistics commands, commanding officers of marine safety offices and marine inspection offices, Administrative Law Judges and investigating officers shall comply with the requirements of this instruction.

CLYDE T. LUSK, JR.
Acting