

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
Tel: (916) 274-5751 Fax: (916) 274-5785



NOTICE TO STAKEHOLDERS OF INTENT TO CONDUCT VIDEO HEARINGS

July 14, 2020

The California Occupational Safety and Health Appeals Board (Appeals Board) has made a determination, after soliciting input from our stakeholders, to conduct remote hearings by video. The Appeals Board has determined that the remote accessibility of video hearings presents a viable option for conducting hearings and will allow hearings to proceed without additional delay. Video hearings will be conducted in a manner that protects the integrity of the hearing process, ensuring due process for the parties, and increasing the level of access and convenience for all participants.

In order to ease transition and ensure parties are able to access the video hearing venue, a video hearing coordinator will be assigned by the Appeals Board. The video hearing coordinator will provide parties with assistance in advance of the hearing. Additionally, the video hearing coordinator will be available to answer questions and share information with the parties, witnesses, stakeholders, and the public regarding the video hearing process.

Included below is a brief description of the process involved in video hearings and a description of some of the features that video hearings offer.

Process for Video Hearings

- Conference Prior to Hearing

Status Conferences and Prehearing Conferences scheduled prior to the hearing will be used by the Administrative Law Judge (ALJ) to discuss the particular details involved in arranging the case for video hearing. The ALJ assigned to the case will expect the parties to be prepared to discuss how many witnesses will appear for hearing and the details of how those witness will appear for hearing. This will ensure that access to the video hearing is arranged prior to the day of hearing.

- Exhibit Upload Prior To Hearing

Parties will be expected to submit all exhibits prior to the hearing to ensure that those exhibits are accessible to the ALJ, witnesses, and the other party. Exhibits submitted digitally through OASIS must be submitted at least 10 days prior to the hearing. However, exhibits that are not digitally submitted must be received by the Appeals Board at least 15 days prior to the hearing to ensure time for processing.

- Witnesses

The party calling a witness will be responsible for arranging for the witness's appearance either using their own device, coming to the party's office, or subpoenaing the witness to appear at the Appeals Board or the Division's office. During the prehearing status conference, the parties will discuss witness appearance issues with the ALJ assigned to conduct the hearing. All witnesses will appear by video unless there is a circumstance that makes video appearance impossible, in which case the ALJ may permit an appearance by telephone.

- Hearings

Hearings will follow the usual format. During the hearing, the parties will have the opportunity to examine and cross-examine all witnesses under oath or affirmation. Exhibits can be displayed to all participants, including witnesses to elicit testimony, and those exhibits can also be marked. The parties will also have the opportunity to provide legal argument and objections as appropriate.

Notable Features and Changes with Video Hearings

- Access

Employers, their counsel, and witnesses will be able to access the video platform using a computer, tablet, or smart phone. If any participants are unable to appear using their own device, they will have access to the necessary equipment at an Appeals Board or Division office.

The Notice of Hearing will provide the parties, interested employees, and the public with the information needed to access the hearing. The hearing will be accessible by simply opening the video platform and entering the meeting identification number.

- Exhibits

Exhibits will be displayed for the parties and testifying witness through the video platform via screen-sharing, which broadcasts the document or photograph to the participants on their devices. The video platform also provides an annotation tool, which allows for the marking up of photographs or other documentary evidence during witness testimony.

- Control of Participants

The ALJ will move parties and witnesses in and out of the hearing room using a virtual "waiting room," which excludes a participant from the hearing so he or she cannot hear anything that is being said in the hearing. The ALJ will have the ability to turn microphones and video cameras off for any attendees that are not participating in the hearing in order to avoid distractions. Disruptive participants will be admonished and, if necessary, ejected from the hearing by the ALJ.