

(5) Take any other action which is necessary to insure an orderly hearing.

(h) The testimony at the hearing shall be recorded, and shall be transcribed if appropriate.

(i) The parties to the hearing shall be afforded the opportunity to present, examine, and cross-examine witnesses. The DOL Administrative Law Judge may elicit testimony from witnesses, but shall not act as advocate for any party.

(j) The DOL Administrative Law Judge shall receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof shall be made available by the party submitting the documentary evidence, to any part to the hearing upon request.

(k) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(l) The case record, or any portion thereof, shall be available for inspection and copying by any party to the hearing at, prior to, or subsequent to the hearing upon request. Special procedures may be used for disclosure of medical and psychological records such as disclosure to a physician designated by the individual concerned.

(m) The DOL Administrative Law Judge shall, if feasible, encourage resolution of the dispute by conciliation at any time prior to the conclusion of the hearing.

[45 FR 39468, June 10, 1980, as amended at 56 FR 54708, Oct. 22, 1991]

**§ 658.425 Decision of DOL Administrative Law Judge.**

(a) The DOL Administrative Law Judge may:

(1) Rule that there is a lack of jurisdiction over the case;

(2) Rule that the appeal has been withdrawn properly and in writing,

with the written consent of all the parties;

(3) Rule that reasonable cause exists to believe that the appeal has been abandoned or that repeated requests for re-scheduling are arbitrary and for the purpose of unduly delaying or avoiding a hearing; or

(4) Render such other rulings as are appropriate to the issues in question. However, the DOL Administrative Law Judge shall not have jurisdiction to consider the validity or constitutionality of JS regulations or of the Federal statutes under which they are promulgated.

(b) Based on the entire record, including any legal briefs, the record before the State agency, the investigation (if any) and determination of the Regional Administrator, and evidence provided at the hearing, the DOL Administrative Law Judge shall prepare a written decision. The DOL Administrative Law Judge shall send a copy of the decision stating the findings and conclusions of law and fact and the reasons therefor to the parties to the hearing, including the State agency, the Regional Administrator, the Administrator, and the Solicitor, and to entities filing amicus briefs (if any).

(c) The decision of the DOL Administrative Law Judge shall be the final decision of the Secretary.

**§ 658.426 Complaints against USES.**

Complaints alleging that an ETA regional office or the national office of USES has violated JS regulations should be mailed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Washington, DC 20210. Such complaints should include:

(a) The allegations of wrong-doing, (b) the date of the incident, (c) location of the incident, (d) who the complaint is against, and (e) any other relevant information available to the complainant. The Assistant Secretary or the Regional Administrator as designated shall make a determination and respond to the complainant after investigation of the complaint.