

Office of Administrative Hearings (OAH)	Transmittal Number: 95-11
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Distribution:	
ALB OAH Staff <input checked="" type="checkbox"/> UPS ALJs/ <input type="checkbox"/> Upstate LDSS <input type="checkbox"/> SUP ALJs <input type="checkbox"/>	Subject: Procedures for Upstate Local District and OHSM Waivers
NYC OAH Staff <input type="checkbox"/> NYC ALJs/ <input type="checkbox"/> NYC Agencies <input type="checkbox"/> SUP ALJs <input type="checkbox"/>	

It is currently the responsibility of the Correspondence Unit to process requests on the part of the agency for waivers of appearance at the hearing. The decision whether to approve or deny a waiver is generally made by a Legal Affairs Specialist I. After conversing on the telephone with a local district or OHSM representative, or by reviewing a packet submitted by such representative, the Legal Affairs Specialist must determine whether a waiver request has met the criteria for approval. If the Legal Affairs Specialist determines lack of good cause for a waiver approval, the waiver request is denied.

Effective immediately, the following procedures should be followed when processing waivers from OHSM or local districts:

Agency Request for Waiver

Generally, most local districts request a waiver by telephone. For telephone requests, a Legal Affairs Specialist will evaluate the reason(s) why the agency is requesting a waiver and determine whether the waiver is approved or denied. The local district representative is notified during the telephone conversation whether the waiver is approved or denied. The Legal Affairs Specialist must indicate in the Message field of the electronic 1891 "waiver approved date" or "waiver denied date". The Legal Affairs Specialist must enter the following information in the Comment field of the electronic 1891:

*(Tel. Waiver Req. received from (Name, local agency, on date). Reason:_____. Waiver approved or denied on date. (If denied, indicate reason for denial.)" Enter the date processed and initials.

If the hearing has not been scheduled, no further action is required. If the hearing has been scheduled, an ALJ Waiver Notification will be completed and electronically mailed to the assigned Administrative Law Judge/Supervising ALJ by the designated Correspondence Unit staff member.

When a waiver is requested by the local district by correspondence, a Legal Affairs Specialist must review the submitted documents and determine whether the waiver is approved or denied. The Legal Affairs Specialist enters in the Comment field of

* Tel. Waiver Req. is the abbreviation for use in the Comment field when referring to a Telephone Waiver Request.

the electronic 1891 the same information required for a telephone waiver request except it is identified as a *Corres. Waiver Req." instead of "Tel. Waiver Req." A printout of the Appellant Information Screen with a notation that the agency needs to be notified regarding the waiver determination is given to the Liaison. The Liaison will call to notify the agency representative of the waiver determination. The Liaison enters in the Comment field of the electronic 1891: "(Name, local agency) notified on (date) waiver was approved or denied " and discards the Appellant Information Screen printout.

If the hearing has not been scheduled, the designated Correspondence Unit staff will "To File" the waiver so it can be placed in the fair hearing file. If the hearing has been scheduled, designated Correspondence Unit staff completes and electronically mails the ALJ Waiver Notification to the assigned Administrative Law Judge/Supervising ALJ.

OHSM Request for Waiver

OHSM waiver requests are generally received by mail. A Legal Affairs Specialist will review the submitted documents and determine whether the waiver should be approved or denied.

The Legal Affairs Specialist must indicate in the message field of the electronic 1891 "waiver approved date" or "waiver denied date". In the Comment field of the electronic 1891 the following information must be entered:

"(Corres. Waiver Req. received from Name, regional OHSM office on date. Reason _____. Approved or denied by _____ on date. (If denied, indicate reason for denial)." Enter the date processed and initials.

If the waiver has been denied, a printout of the Appellant Information Screen with a notation to notify the agency regarding waiver determination is given to the Liaison. The Liaison will call to notify the agency representative of the waiver determination. The Liaison enters in the Comment field of the electronic 1891: "Name, regional OHSM office notified on date waiver denied." The Liaison enters the date and initials and discards the Appellant Information Screen printout.

If the hearing for the denied waiver is not scheduled, designated Correspondence Unit staff will "To File" the correspondence so that it can be put in the fair hearing file. If the hearing for the denied waiver is scheduled, designated Correspondence Unit staff completes and electronically mails the ALJ Waiver Notification to the assigned Administrative Law Judge/Supervising ALJ.

If the waiver is approved and the hearing is not scheduled, Correspondence Unit staff will "To File" the correspondence and no further action is required.

If the waiver is approved and the hearing is scheduled, designated Correspondence Unit staff completes and electronically mails the ALJ Waiver Notification to the assigned Administrative Law Judge/Supervising ALJ. The correspondence waiver is then sent "To File".

* Corres. Waiver Req. is the abbreviation for use in the Comment field when referring to a Correspondence Waiver Request.