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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**TRAINING OF NEW ADMINISTRATIVE LAW  
JUDGES AT THE OFFICE OF DISABILITY  
ADJUDICATION AND REVIEW**

**October 2011                  A-12-11-1126**

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**AUDIT REPORT**

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## **Mission**

**By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.**

## **Authority**

**The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:**

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

**To ensure objectivity, the IG Act empowers the IG with:**

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

## **Vision**

**We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.**



## SOCIAL SECURITY

### MEMORANDUM

Date: October 13, 2011 Refer To:

To: The Commissioner

From: Inspector General

Subject: Training of New Administrative Law Judges at the Office of Disability Adjudication and Review (A-12-11-11126)

### OBJECTIVE

The objective of this audit was to determine whether newly hired administrative law judges (ALJ) received training timely to perform their specific duties to adjudicate disability claims at the Office of Disability Adjudication and Review (ODAR).

### BACKGROUND

To apply for benefits, claimants file applications with the Social Security Administration (SSA). Disability determination services (DDS) determine whether claimants are disabled under SSA's eligibility criteria. When a DDS denies a claim for disability benefits, claimants can appeal that decision and have a hearing before an ALJ.<sup>1</sup> ALJs hold hearings at over 160 hearing offices (including 7 satellite offices) and 5 National Hearing Centers (NHC).<sup>2</sup> ODAR has approximately 1,300 ALJs and over 7,000 support staff working in these offices.

ODAR's goal is to reduce the hearings backlog to about 466,000 pending claims and an average processing time of 270 days per case by the end of Fiscal Year (FY) 2013.<sup>3</sup> To help meet its backlog goal, SSA has developed a number of initiatives and has set a

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<sup>1</sup> SSA, Hearings, Appeals and Litigation Law Manual I-2-0-2: *Hearing Before an Administrative Law Judge – General* (last update Sept. 28, 2005).

<sup>2</sup> NHCs conduct only video hearings. NHCs are located in Albuquerque, New Mexico; Baltimore, Maryland; Chicago, Illinois; Falls Church, Virginia; and St. Louis, Missouri.

<sup>3</sup> For a discussion on whether SSA will meet its 2013 backlog goals, see our June 2011 *Congressional Response Report: Office of Disability Adjudication and Review's Hearings Backlog and Processing Times* (A-12-11-21192).

goal for ALJs to issue 500 to 700 legally sufficient hearing decisions per year.<sup>4</sup> As of May 2011, ODAR had a backlog of about 740,000 pending claims.

The President and Congress provided SSA with an additional \$500 million through the *American Recovery and Reinvestment Act of 2009* (ARRA) to process disability and retirement workloads. In FYs 2009 and 2010 using ARRA funds and other appropriations, ODAR hired 305 ALJs and 1,626 support staff.<sup>5</sup>

To complete our review, we interviewed managers and staff at ODAR components responsible for producing, delivering, scheduling, and training for newly hired ALJs. We also reviewed the structure and content of ODAR's training programs for ALJs. In addition, we administered a training questionnaire to 287 ALJs<sup>6</sup> hired in FYs 2009 and 2010. See Appendix B for a further discussion of our scope and methodology.

## RESULTS OF REVIEW

ODAR created a three-phase training program to develop newly hired ALJs. The training phases are as follows.

- **Phase One:** On-the-job and video-on-demand (VOD) training.
- **Phase Two:** 4-week traditional classroom training.
- **Phase Three:** Mentoring from experienced ALJs.

We sent a questionnaire to the ALJs hired in FYs 2009 and 2010 to assess their satisfaction with the training program. Of the 287 ALJs surveyed, 217 (76 percent) responded.

Overall, we found that 98 percent of the new ALJs said the training was helpful, 87 percent said the training was timely, and 83 percent said the training was consistent with their expectations. In addition, for each level of the three-phase training program, at least 85 percent of the new ALJs either were satisfied or did not state dissatisfaction (see table).

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<sup>4</sup> In an October 2007 Memorandum, ODAR's Chief ALJ identified expectations regarding the services ALJs provide to the public. Mainly, he asked ALJs to issue 500 to 700 legally sufficient decisions each year; act on a timely basis; and hold scheduled hearings unless there is a good reason to postpone or cancel. SSA considers the 500 minimum decisions a goal, not a quota. In a December 2007 Memorandum, the Chief ALJ followed up on the earlier Memorandum and emphasized the importance of legally sufficient hearings and decisions.

<sup>5</sup> These additional funds were provided under the *American Recovery and Reinvestment Act of 2009*, Pub. L. No. 111-5, Division A, Title VIII (H.R. 1-71 to H.R. 1-72).

<sup>6</sup> Of the 305 ALJs hired during the FY 2009-2010 period, 13 ALJs left the Agency before or during our review and 5 were not sent questionnaires since we interviewed them in person. ODAR hired another 73 ALJs just after fiscal year 2010 ended. We did not send these ALJs a questionnaire since they were hired outside the scope of our audit.

Question	Percent Satisfied or Not Dissatisfied
Satisfaction with Phase One	88
Satisfaction with Phase Two	94
Satisfaction with Phase Three	85

While most of the ALJs completed Phase One training, 13 ALJs stated they did not complete Phase One training because they lacked sufficient guidance from hearing office management. In terms of Phase Two training, 25 percent of the ALJs commented that the formal classroom training should be modified to account for ALJs with previous ODAR experience. Most ALJs were satisfied with Phase Three training, though 16 ALJs stated they were dissatisfied because either they were not assigned a mentor or the mentor had little time to give them guidance. Finally, about one in five ALJs said they had not discussed their training needs with management.

### THREE-PHASE TRAINING PROGRAM FOR NEWLY HIRED ALJs

In August 2006, a cross-component workgroup met to determine how to enhance the training program for new ALJs.<sup>7</sup> The key objectives for the workgroup were to incorporate technology; clarify, and effectively convey the importance of, SSA policy and the role of the ALJ; and include instruction on the electronic disability (eDib)<sup>8</sup> process. The training program redesign included a three-phase approach for delivering core competencies all new ALJs must acquire within their first year of employment.<sup>9</sup>

The three-phase training program is mandatory for all newly hired ALJs. The ODAR-administered<sup>10</sup> training involves on-the-job training, completion of VOD sessions, traditional classroom training, and mentoring<sup>11</sup> from experienced ALJs in the hearing

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<sup>7</sup> The workgroup met at the request of an Executive Steering Committee established to provide guidance and direction for the modification of ALJ training. The workgroup consisted of subject matter experts and training specialists from the Offices of Disability Policy; Disability and Income Security Programs, now the Office of Retirement and Disability Policy (ORDP); General Counsel (OGC); and Learning as well as ODAR, formerly the Office of Hearings and Appeals. The workgroup made 21 recommendations to the Executive Steering Committee, of which ODAR adopted 19.

<sup>8</sup> Through implementation of the eDib projects, the official claims folder has evolved from paper to partially electronic to a fully electronic disability claims process.

<sup>9</sup> Before ODAR established the three-phase training program in 2006, new ALJs took 5 weeks of classroom training in available training space nationwide.

<sup>10</sup> The Office of the Chief Administrative Law Judge (OCALJ) and the Division of Training and Human Resources identify ALJ training needs, identify instructors, schedule ALJs for classroom training, create VOD material, and stipulate the three-phase training program requirements and curriculum to new ALJs.

<sup>11</sup> See Appendix D for a description of the mentoring activities in each of the three phases of training and the different segments ALJs complete to meet all the requirements.

office.<sup>12</sup> ODAR asks experienced ALJs participating in the mentor program to be cognizant of the distinction between new ALJs with ODAR experience and ALJs who are new to ODAR's programs.<sup>13</sup> In addition, some training segments and production expectations are adjusted in Phases One and Three based on the newly hired ALJ's experience before his/her appointment. For example, during the first year, the *Mentor Guide* explains that a new ALJ without Agency experience should schedule a minimum of 15 cases the first month, 20 the second month, and so forth, adding 5 cases per month until full scheduling and productivity are achieved. An ALJ with prior ODAR experience is expected to schedule a minimum of 20 hearings each of the first 2 months and 30 the third month and to continue scheduling an additional 10 hearings each month.

## OIG QUESTIONNAIRE ON TRAINING FOR NEWLY HIRED ALJS

We sent a questionnaire to the 287 newly hired ALJs<sup>14</sup> in FYs 2009 and 2010, asking about their experiences with the three-phase ALJ training program. Of the ALJs surveyed, 217 responded to the questionnaire (a 76-percent response rate).<sup>15</sup> We structured the questionnaire so ALJs could rate their satisfaction with the overall training as well as each of the three phases. We also provided open-ended questions so the ALJs could provide their thoughts on the training as well as recommendations on improvements for each phase.<sup>16</sup>

### Overall Opinion of the Three-Phase Training Program

Overall, 98 percent of new ALJs who responded to our survey thought the three-phase training program was helpful, 87 percent said the training was timely, and 83 percent said the training was consistent with their expectations. Respondents provided numerous positive comments about the training. In their comments, a number of ALJs

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<sup>12</sup> The training structure and guidance are available online in desktop training guides, VODs, Interactive Video Teletraining (IVT), and in the 2010 New ALJ Mentoring Guide (*Mentor Guide*). The *Mentor Guide* provides a list of participating lead mentors, along with information to administer and facilitate new ALJ training activities. ALJ mentors and the Hearing Office Chief ALJs (HOCALJ) keep track of the ALJs' progress as they complete each phase of the training.

<sup>13</sup> The Agency considered a new ALJ to have ODAR experience if, within no more than 1 year before his/her appointment, the new ALJ was involved in reviewing claims using the electronic file and writing disability decisions.

<sup>14</sup> ODAR hired 305 ALJs in FYs 2009 and 2010. However, 13 ALJs left the Agency before or during our review. Moreover, five ALJs were interviewed in person when we visited the Wilkes-Barre, Pennsylvania, Hearing Office. All five ALJs were very satisfied or satisfied with the overall three-phase training program. We sent questionnaires to the remaining 287 newly hired ALJs.

<sup>15</sup> Responding ALJs did not always answer every question. For instance, the questionnaire asked respondents to skip certain questions if the matter did not pertain to them.

<sup>16</sup> See Appendix E for a complete copy of our ALJ training questionnaire.

stated the trainers were experts, and all phases of training were well developed. For instance, three ALJs noted:

- “Everything has been excellent;”
- “My mentor has been amazing with his advice, teaching methods, and patience;” and
- “I think the training program was just right—it provided enough information to get a new ALJ started, without wasting time or expense.”

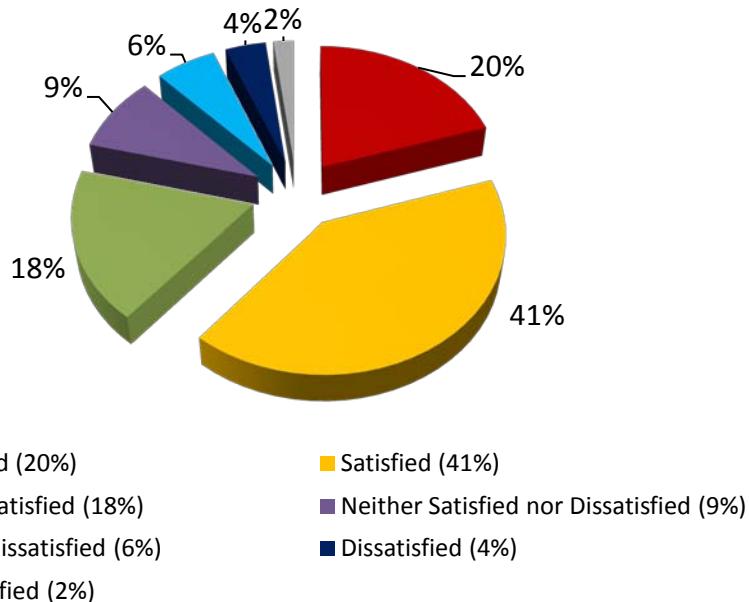
### Questionnaire Results from Phase One Training

About 88 percent of the participants either were satisfied or did not state dissatisfaction with the Phase One training, with 20 percent being “very satisfied” (see Figure 1). Phase One training occurs during the first 2 weeks after being hired. While most of the ALJs completed Phase One training, 13 ALJs stated they did not complete this phase because they lacked sufficient guidance from hearing office management.<sup>17</sup>

**Figure 1: ALJ Satisfaction with Phase One Training**

Newly Hired ALJs in FYs 2009 and 2010

(203 Responses)



<sup>17</sup> The HOCLJ and mentor provide guidance and material about the Phase One training to the new ALJs. All information about the Phase One training is accessible online as a desktop training guide and *Mentor Guide*. The ALJ is expected to watch a series of 17 VODs before attending Phase Two training.

Of the ALJs who responded to the Phase One questions, 96 provided additional comments. Many new ALJs thought hearing office management needed to convey the training material and structure more effectively. In addition to the 13 ALJs who did not take the Phase One training, other ALJs stated they did not fulfill all segments as required because the full training program requirements were not conveyed to them. For example, two ALJs stated, “I was unaware that training material existed, such as the *Mentor Guide* or about my obligation to finish VOD instruction,” and “The office and computer system orientation and job expectations portion of the Phase One training would have been helpful had I known about them at the time.”

Other ALJs stated Phase One training segments should focus more on hearing office functions and the disability process, the Case Processing and Management System, general fundamentals of disability law, and history of SSA’s programs. Some ALJs thought one-on-one training was more essential at this stage, rather than focusing on the medical instruction offered in some of the VODs.<sup>18</sup> For example, an ALJ commented, “The single most helpful set of instructions for those with no prior ODAR experience would be to provide more comprehensive training about the Title II and Title XVI programs, as it is the framework upon which to judge disability cases.”

### **Questionnaire Results from Phase Two Training**

About 94 percent of the participants either stated they were satisfied or did not state dissatisfaction with the Phase Two training, with 36 percent being “very satisfied” (see Figure 2). Based on a review of ODAR’s training records, we also determined that all newly hired ALJs participated in the 4-week formal classroom training.<sup>19</sup> ODAR holds new ALJ training in Falls Church, Virginia, at its National Training Center.<sup>20</sup> Subject matter experts from ODAR, ORDP, and OGC, among others, deliver classroom training.

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<sup>18</sup> Many of the VODs in Phase One cover medical information so the ALJ can evaluate the signs and symptoms of medical conditions that help provide findings of disability.

<sup>19</sup> See Appendix F for a partial agenda of the Phase Two training.

<sup>20</sup> In October 2009, SSA completed the National Training Center, located at ODAR Headquarters. ODAR has a second national training center, the Midwest Training Center, in St. Louis, Missouri, which serves ODAR employees from other parts of the country.

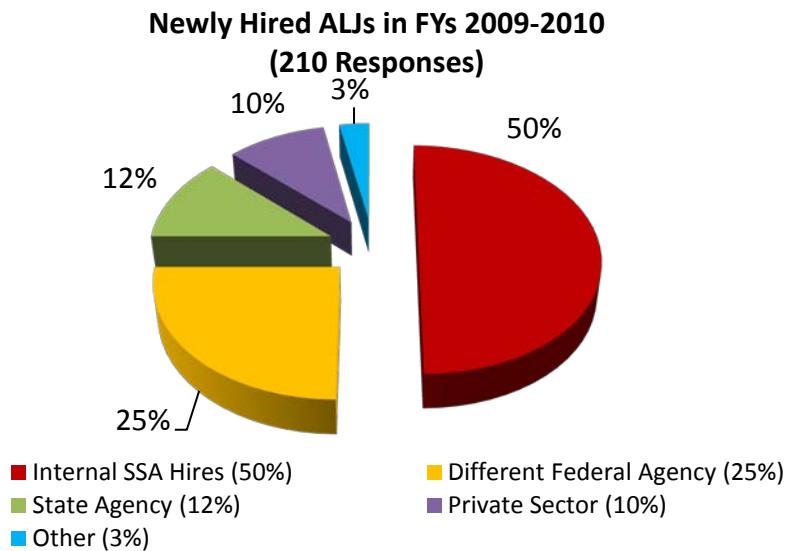
**Figure 2: ALJ Satisfaction with Phase Two Training**



About 25 percent of the 204 responses we received from new ALJs regarding Phase Two training suggested that the 4-week classroom training could be improved if the classroom instruction was tailored to take into account the 2 groups who comprise the ALJ hires: new ALJs with prior ODAR experience and those without it. While about 50 percent of new ALJs reported having prior SSA experience (see Figure 3),<sup>21</sup> many comments suggested the ALJs were left behind in some classes because they were not yet familiar enough with the disability program and laws, ODAR's organizational structure, or how claims were processed in the hearing offices. However, of the 50 percent of new ALJs with previous ODAR experience, some stated the classroom instruction was redundant since they were familiar with the overall disability program and hearing office functions.

<sup>21</sup> Most ALJs hired from within SSA were working at ODAR hearing offices, holding positions as attorney advisors, senior attorneys, hearing office directors (HOD), and group supervisors. The ALJs hired from other Federal agencies included the Departments of Labor, Interior, Agriculture, and Health and Human Services. Those new ALJs hired from State agencies came from the Oklahoma Employment Security Commission, Legal Services of New York City, and the Louisiana Department of Justice. ALJs who worked in the private sector came from private law firms or were self-employed in their own law firm.

**Figure 3: Prior Work of Newly Hired ALJs**

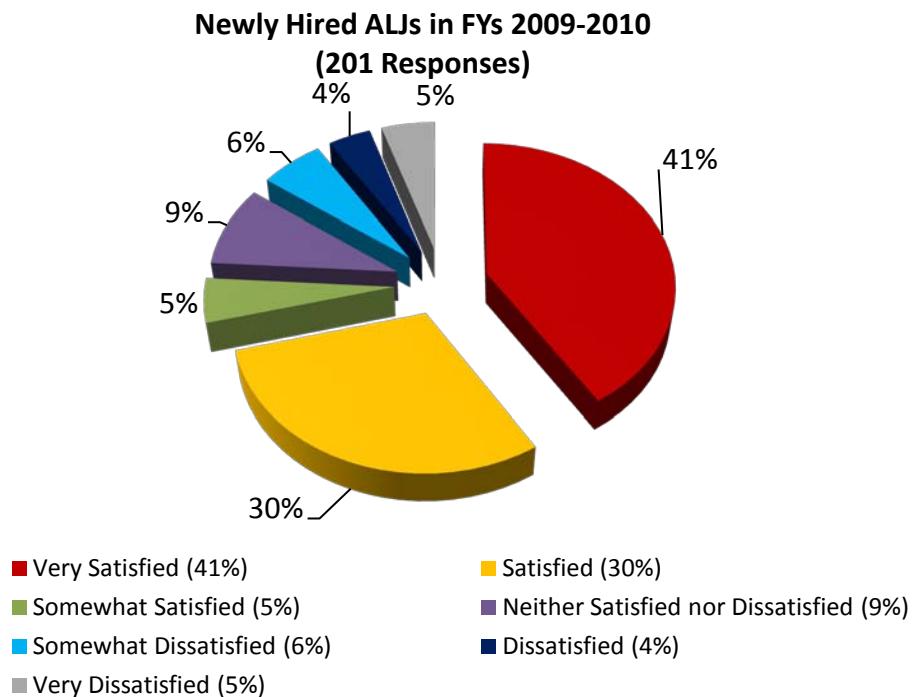


ALJs from both groups suggested breaking out some training sessions for those facing a steeper learning curve allowing them to catch up, while those with more ODAR experience wanted to focus on other specialized topics instead of repeating familiar material. The training was tailored for ALJs with different exposure to ODAR in Phases One and Three. For example, in Phase Three, ODAR established different productivity standards for those with less experience to review cases at a slower pace. ALJs offered comments to modify classes based on prior experience such as, “I was left behind during the higher-level classroom training and could not work at the same pace,” and “There should have been a separate section, at least part of the time, for the ODAR experienced ALJs over the first two weeks of training.”

#### Questionnaire Results from Phase Three Training

About 85 percent of the participants stated they were satisfied or did not state dissatisfaction with the Phase Three training, with 41 percent being “very satisfied” (see Figure 4). Approximately 5 percent of the ALJs responding to the question were “very dissatisfied.”

**Figure 4: ALJ Satisfaction with Phase-Three Training**



Phase Three mentoring is a significant part of the training program and commences once the ALJ returns from formal classroom training. This formal mentor relationship lasts approximately 6 months.<sup>22</sup> ODAR designed the training to provide new ALJs with an understanding of their obligation to issue legally sufficient decisions in a timely manner to meet the Agency's expectation of issuing 500 to 700 legally sufficient decisions a year.

Among the 201 responses to this question, some newly hired ALJs said they were not assigned a mentor or their mentor had little time for them. The *Mentor Guide* states that mentors are to meet regularly with the new ALJ (2 to 3 times each week) to ensure the mentor meets the ALJ's needs. The mentor helps the new ALJ (1) acquire adjudicative skills, (2) build and manage a docket, and (3) create timely and legally sufficient hearings and decisions. The following ALJ comment exemplifies this situation: "Since both the mentor and the new ALJ have demanding caseloads, it limits the amount of time that the mentor and I spend together. Therefore, the mentor should be given an incentive to mentor, for example carry a somewhat lighter caseload while they mentor."

<sup>22</sup> As noted earlier, the *Mentor Guide* provides explicit instructions for the mentor to assist the new ALJ throughout the on-the-job training activities.

In general, the HOCLAJ assigns an experienced ALJ from the new ALJ's home hearing office to serve as a mentor. However, if no mentors are available in the home hearing office, ODAR assigns a mentor from another hearing office.<sup>23</sup> At times, this can hinder communication with the mentor. In response to our questionnaire, we received the following comments: "My mentor was in a different hearing office than me and was also in a different time zone and region . . . These factors made it difficult to communicate," and "I had very little contact with my mentor, but I was an Agency insider and so I did not need much contact."

### **Additional ALJ Training**

Of the questionnaire respondents, 112 ALJs responded that they discuss their training with the HOCLAJ; 17 ALJs said they discuss their training with an "other party," such as the Regional Chief Administrative Law Judge or Group Supervisor; and 8 said they discuss their training with the HOD. However, 45 ALJs (21 percent) said they do not discuss their training with anyone. ALJs expressed different reasons as to why they had not discussed their training needs with anyone, such as, "There is no one in the office with whom to discuss training," and "No one yet; I expect I would consult the HOD, HOCLAJ and other ALJs."

We also inquired about training needs related to State Bar membership. Each State Bar member is responsible for applying to his/her State Bar for Continuing Legal Education credit, in accordance with the requirements for that jurisdiction. Of the respondents, 126 ALJs stated they are required to earn Continuing Legal Education as part of their State Bar status.

## **CONCLUSION AND RECOMMENDATIONS**

Overall, we found that 98 percent of the new ALJs said the training was helpful, 87 percent said the training was timely, and 83 percent said it met their expectations. In addition, for each level of the three-phase training program, at least 85 percent of the new ALJs either were satisfied or did not state dissatisfaction. Even though the ALJs were mostly satisfied with the content and timing of the three-phase training program, they offered suggestions for improvement. Not all the ALJs completed the Phase One training, and some ALJs stated that additional instructions on this phase would be helpful. In addition, 25 percent of ALJs providing comments about Phase Two suggested ODAR modify the training based on whether the newly hired ALJs had previous ODAR experience. Some ALJs also thought ODAR could improve the mentoring program, since either they did not have a mentor, or their mentor had little

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<sup>23</sup> OCALJ recently moved certain responsibilities from the mentor to the hearing office management team. Regional office and management now inform OCALJ that Phase One and Three activities have been completed. In addition, ODAR asked all regions to appoint a mentor for each of the new ALJs assigned to their region prior to their entry on duty. OCALJ prefers the mentor is in the same office as the new ALJ, but recognizes that in some offices a sufficient number of excellent mentors may not be available or willing to serve in this role. ODAR has made these training revisions in a *2011 Mentor Guide*.

time to give them guidance. Finally, about one in five ALJs said they had not discussed their training needs with management.

Based on questionnaire feedback from the newly hired ALJs, we recommend SSA:

1. Remind hearing office managers to discuss the new-hire training requirements timely, and provide the training material to all newly hired ALJs.
2. Consider modifying the 4-week classroom training to accommodate ALJs with differing levels of experience with the Agency's programs.
3. Ensure ALJs have a mentor assigned during the three-phase training program, and when possible, assign mentors who are in the same hearing office.
4. Ensure ALJs are part of a process where they can periodically discuss their training needs with more senior ALJs and managers in the hearing office to assist with their ongoing development.

## **AGENCY COMMENTS**

The Agency agreed with all four recommendations. See Appendix G for the Agency's comments.



Patrick P. O'Carroll, Jr.

# Appendices

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APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Qualification Standard for Administrative Law Judge Positions

APPENDIX D – New Administrative Law Judge Mentoring Vision Statement  
*(Mentor Guide)*

APPENDIX E – Office of the Inspector General Questionnaire for Newly Hired  
Administrative Law Judges

APPENDIX F – Phase Two Training Agenda for Newly Hired Administrative Law Judges

APPENDIX G – Agency Comments

APPENDIX H – OIG Contacts and Staff Acknowledgements

## **Appendix A**

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### **Acronyms**

ALJ	Administrative Law Judge
APA	<i>Administrative Procedure Act</i>
ARRA	<i>American Recovery and Reinvestment Act of 2009</i>
C.F.R.	Code of Federal Regulations
DDS	Disability Determination Services
eDib	Electronic Disability
FR	Federal Register
FY	Fiscal Year
HOCALJ	Hearing Office Chief Administrative Law Judge
HOD	Hearing Office Director
H.R.	House Resolution
IVT	Interactive Video Teletraining
KSA	Knowledge, Skills, and Abilities
NHC	National Hearing Center
OCALJ	Office of the Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
OGC	Office of General Counsel
OIG	Office of the Inspector General
OPM	Office of Personnel Management
ORDP	Office of Retirement and Disability Policy
Pub. L. No.	Public Law Number
SSA	Social Security Administration
U.S.C.	United States Code
VOD	Video-on-Demand

# **Scope and Methodology**

To accomplish our objective, we:

- Reviewed applicable Federal laws and regulations and pertinent Office of Personnel Management training policies.
- Reviewed the elements of the Office of Disability and Adjudication Review's (ODAR) three-phase training program and basic core curriculums required for all new ALJs to complete during their first year.
- Interviewed management and staff at the Offices of the Chief Administrative Law Judge (OCALJ) and Executive Operations and Human Resources Division of Training and Human Resources at Headquarters in Falls Church, Virginia.
- Interviewed management and staff in ODAR's Philadelphia Region headquarters and one hearing office in Region III to determine the regional and hearing office responsibilities regarding training for newly hired ALJs.
- Obtained and verified a listing of all new ALJs hired in Fiscal Years 2009 and 2010.
- Developed a questionnaire to evaluate the ALJ training and for new ALJs to provide feedback about training they completed. We tested the questionnaire with five newly hired ALJs and interviewed them afterwards to discuss their responses. We then emailed the questionnaire to 287 new ALJs hired in FYs 2009 and 2010, which did not include the five we interviewed earlier nor ALJs who had already left the Agency at the time of our review.
- Analyzed and compiled the data from the online ALJ training questionnaire, making some queries to respondents to ensure we addressed any anomalies in the data.

The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this audit from October 2010 through May 2011, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# **Qualification Standard for Administrative Law Judge Positions**

Below we quote information from the Office of Personnel Management's responsibilities pertaining to Federal administrative law judges (ALJ).<sup>1</sup>

## **I. BACKGROUND**

The U. S. Office of Personnel Management (OPM) administers the qualifications for the Federal Government ALJ function. The function was created by the *Administrative Procedure Act* (APA) in 1946 to ensure fairness in administrative proceedings before Federal Government agencies. An ALJ serves as an independent, impartial trier of fact in formal proceedings requiring a decision on the record after the opportunity for a hearing. In general, ALJs prepare for, and preside at, formal proceedings required by statute held under or in accordance with provisions of the APA, codified, in relevant part, in sections 553 through 559 of title 5, United States Code (U.S.C.). ALJs rule on preliminary motions, conduct pre-hearing conferences, issue subpoenas, conduct hearings (which may include written and/or oral testimony and cross-examination), review briefs, and prepare and issue decisions, along with written findings of fact and conclusions of law.

The Federal Government employs ALJs in a number of agencies throughout the United States. Cases may involve Federal laws and regulations in such areas as admiralty, advertising, antitrust, banking, communications, energy, environmental protection, food and drugs, health and safety, housing, immigration, interstate commerce, international trade, labor management relations, securities and commodities markets, social security disability and other benefit claims, and transportation.

## **II. QUALIFICATION REQUIREMENTS**

An applicant must meet both the licensure and experience requirements and pass the OPM administrative law judge competitive examination to qualify for an ALJ position.

### **A. Licensure**

Applicants must be licensed and authorized to practice law under the laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territorial court established under the United States Constitution throughout the selection process, including any period on the standing register of eligible applicants. Judicial status is acceptable in lieu of "active" status in States that prohibit sitting judges from maintaining

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<sup>1</sup> U.S. Office of Personnel Management, *Recruiting, Retaining and Honoring a World-Class Workforce to Serve the American People*, [www.opm.gov/qualifications/alj/alj.asp](http://www.opm.gov/qualifications/alj/alj.asp).

“active” status to practice law. Being in “good standing” is acceptable in lieu of “active” status in States where the licensing authority considers “good standing” as having a current license to practice law.

## B. Experience

### Qualifying Experience

Applicants must have a full 7 years of experience as a licensed attorney preparing for, participating in, and/or reviewing formal hearings or trials involving litigation and/or administrative law at the Federal, State, or local level.

The applicant must have conducted cases on the record under procedures at least as formal as those prescribed by sections 553 through 559 of title 5, U.S.C.

Qualifying litigation experience involves cases in which a complaint was filed with a court, or a charging document (for example, indictment or information) was issued by a court, a grand jury, or appropriate military authority, and includes:

- participating in settlement or plea negotiations in advance of trial;
- preparing for trial and/or trial of cases;
- preparing opinions;
- hearing cases;
- participating in or conducting arbitration, mediation, or other alternative dispute resolution approved by the court; or
- participating in appeals related to the types of cases above.

Qualifying administrative law experience involves cases in which a governmental administrative body initiated a formal procedure and includes:

- participating in settlement negotiations in advance of hearing cases;
- preparing for hearing and/or trial of cases;
- preparing opinions;
- hearing cases;
- participating in or conducting arbitration, mediation, or other alternative dispute resolution approved by the administrative body; or
- participating in appeals related to the types of cases above.

### Non-qualifying Experience

Experience involving cases with no formal hearing procedure and uncontested cases involving misdemeanors, probate, domestic relations, or tort matters does not qualify.

## **C. Examination**

Applicants are required to pass an examination, the purpose of which is to evaluate the competencies/knowledge, skills, and abilities (KSA) essential to performing the work of an ALJ.

## **III. CONDITION OF EMPLOYMENT**

ALJs must be held to a high standard of conduct to maintain the integrity and independence of the administrative judiciary. As a condition of employment, all ALJs must meet the licensure requirement stated in Part II Qualification Requirements. Incumbent ALJs must continue to meet this condition throughout the duration of their employment. This requirement also applies to former ALJs who are reinstated or reemployed as Senior ALJs. Judicial status is acceptable in lieu of “active” status in States that prohibit sitting judges from maintaining “active” status to practice law. Being in “good standing” is acceptable in lieu of “active” status in States where the licensing authority considers “good standing” as having a current license to practice law.

Note: On July 18, 2008, the Office of Personnel Management issued an interim rule, 73 FR 41235, suspending the requirement in 5 CFR 930.204(b) that requires incumbent ALJs to “possess a professional license to practice law and be authorized to practice law.”

# **New Administrative Law Judge Mentoring Vision Statement (*Mentor Guide*)**

## **PHASE ONE MENTOR ACTIVITIES**

In collaboration with the Hearing Office Chief Administrative Law Judge, the mentor plays an important role in the new administrative law judge's (ALJ) training and development. In partnership with the hearing office management team, the following activities are conducted to every extent possible.

- Make sure ALJs attend all Interactive Video Teletraining broadcasts, teleconferences, etc.
- Arrange for the new ALJ to meet/interview all hearing office personnel identified earlier in this section of the guide.
- Using the first week of Phase Two training materials (available online), provide a broad overview of the disability program, including an explanation of the District Office, Disability Determination Services, Hearing Office, the function of the Appeals Council and the role of the Federal courts. Discuss Title II, Date Last Insured, Title XVI, grids, etc. Explain the law, regulations, and rulings. Show the new ALJ where these items are available online.
- Introduce the new ALJ to the computer. Request that the new ALJ contact the Office of the Chief ALJ to obtain his/her LexisNexis password. Show the new ALJ Word, Outlook, the Case Process Management System, the Digital Recording Acquisition Project, and other online resources. Have an experienced staff attorney explain the Digital Generated System and the Findings Integrated Templates to the new ALJ. Have the new ALJ practice using these applications. If necessary, refer to management a list of those applications requiring additional computer training/resources needed by the new ALJ.
- Show the new ALJ a file and go through it with him/her, discussing what is in each section. Introduce the new ALJ to electronic disability (eDib) and show him/her how to use it.
- Arrange for the new ALJ to observe some hearings. Try to expose the new ALJ to as many types of hearings as feasible. The hearings may include the following types: adult, child, represented, unrepresented, vocational expert, medical expert, and video teleconferencing hearing. Arrange for the new ALJ to see the hearings of other pre-selected ALJs and ensure that the new ALJ has a chance to ask questions of the veteran ALJ about the hearing. Suggest that the new ALJ write notes while observing the hearing. These notes should include salient facts that the new ALJ thinks are pertinent to the hearing. Following the hearing, encourage the new ALJ to ask you questions. The ALJ completes the Hearings Observed Checklist.

## **PHASE TWO MENTOR ACTIVITIES**

It is important to continue the mentoring relationship while the new ALJ is in formal training.

The mentor should be in touch with the new ALJ weekly during this period to discuss the training and any concerns.

The mentor should also:

- Encourage the new ALJ to participate fully in the training and ask questions of instructors appropriately. The mentor should have the new ALJ training materials and agenda as reference resources.
- Be sure to exchange contact information before the new ALJ leaves for Phase Two formal training.

## **PHASE THREE MENTOR ACTIVITIES**

The mentor should review the following topics with the new ALJ:

- The benchmarks;
- Methods of requesting docket dates and/or scheduling hearings;
- Effective file review;
- Determining when experts are needed and how the experts are requested and scheduled (stressing the importance of rotational assignment);
- How to maintain a scheduled docket;
- Methods of conducting efficient due process hearings;
- Use of bench decisions;
- Drafting instructions;
- What constitutes a legally sufficient decision;
- Most common reasons for remands; and
- Use of technology.

The ALJ and mentor are responsible for ensuring all Videos on Demand are viewed and the checklist is completed before attending classroom training, which is Phase Two.

# **Office of the Inspector General Questionnaire for Newly Hired Administrative Law Judges**

The Office of Disability Adjudication and Review (ODAR) established a three-phase training program for new administrative law judges (ALJ), which includes mentors assigned to each ALJ. This survey covers questions about each of the three phases of your training. The Office of the Inspector General will hold your responses in the strictest confidence. This survey should take approximately 5 -10 minutes to complete. We thank you in advance for your feedback.

**1. Prior to taking your new position at ODAR, where were you previously employed?**

- SSA
- Another Federal agency
- A State agency
- Private sector
- Other

**a. Name of prior employer:**

**b. Name of component/office, if appropriate (e.g., SSA/ODAR/Dallas Hearing office):**

**c. Prior position title:**

**d. Length of employment with the employer named in “a” above:**

- Less than 1 year
- 1 to less than 5 years
- 5 to less than 10 years
- More than 10 years

**2. Are you required to obtain Continuing Legal Education (CLE) credits as part of your membership in a state bar?**

- Yes
- No

**3. Have you participated in the ALJ Phase One training, which involves 2 to 3 weeks of orientation and other learning activities, including Video on Demand lessons, designed to create a foundation for the formal classroom training?**

- Yes
- No - Skip to Question 5.

**4. How satisfied were you with the content of the Phase One training? We will ask a specific question about the Mentor Program in a later question.**

- Very satisfied
- Satisfied
- Somewhat satisfied
- Neither satisfied nor dissatisfied
- Somewhat dissatisfied
- Dissatisfied
- Very dissatisfied

**a. Are there any areas where the Phase One coverage could have been improved? If so, please discuss.**

**5. Have you participated in the ALJ Phase Two training, which consists of 4 weeks of traditional classroom training?**

- Yes
- No - Skip to Question 7.

**6. How satisfied were you with the content of the Phase Two training?**

- Very satisfied
- Satisfied
- Somewhat satisfied
- Neither satisfied nor dissatisfied
- Somewhat dissatisfied
- Dissatisfied
- Very dissatisfied

**a. Are there any areas where the Phase Two coverage could have been improved? If so, please discuss.**

**7. Have you participated in the ALJ Mentor Program, which involves all three phases, designed to pair a new ALJ with an experienced ALJ to provide advice, coaching, and expertise during the transition to an independent adjudicator?**

- Yes
- No - Skip to Question 9.

**8. How satisfied were you with the Mentor Program, which was designed to assist you throughout all three phases of the training program?**

- Very Satisfied
- Satisfied
- Somewhat Satisfied
- Neither satisfied nor dissatisfied
- Somewhat Dissatisfied
- Dissatisfied
- Very Dissatisfied

- a. Are there any areas where the Mentor Program could have been improved? If so, please discuss.

**9. Overall, was your experience with the three phases of training consistent with your expectations?**

- Yes
- No
- No opinion

- a. If no, please explain.

**10. Were the three phases of training provided in a timely way, thereby providing you with requisite skills when they were most relevant to your duties?**

- Yes
- No

- a. If the three phases of training were not timely, please explain when it would have been more helpful.

**11. Have you received any training in addition to the ALJ three phase training program? For example, ODAR offered a supplemental ALJ 1-week class.**

- Yes
- No

- a. If yes, please note the types of courses.

**12. Overall, were the different types of training and mentoring provided helpful in the performance of your assigned duties?**

- Yes
- No

**13. With whom do you discuss your training needs at the hearing office?**

- Hearing Office Chief ALJ
- Hearing Office Director
- No one
- Other party
- Specify your own value: \_\_\_\_\_

If you selected other party, please enter name:

**14. Please let us know if you have any other comments with regard to your training or development as an ALJ in ODAR.**

Thank you for completing this survey.

## **Appendix F**

# **Phase Two Training Agenda for Newly Hired Administrative Law Judges**

<b>Day 1</b> <b>Tuesday, October 12, 2010</b>		
<b>Time</b>	<b>Topic</b>	<b>Presenter</b>
8:00 -8:10	<b>Welcome/Student Introductions</b>	Administrative Law Judge (ALJ) Instructor Team
8:10-8:20	<b>Welcome, Office of the Chief Judge</b>	Judge JoAnn L. Anderson, Deputy Chief ALJ
8:20-9:15	<b>Review of Training Material &amp; Overview of the Agenda</b> - ALJ Mentoring Program	Judge Stephens Judge Dilley
9:15-10:15	<b>Administrative Review Process Before the ALJ</b> - Initial and Reconsideration - Prototype - Discuss CFR 404.929-941 Right to a hearing The New Approach – General Overview	Judge Sweeda Judge Weiss
10:15-10:30	<b>BREAK</b>	
10:30 -11:30	<b>SSA ALJ Authority: A Training for New ALJs</b>	Jeff Blair, Office of the General Counsel
11:30 -12:30	<b>Policy and the ALJ</b> <b>Applicable Law - Prioritization</b> - Social Security Act - Social Security Regulations – 20 CFR Part 400-499 - Social Security Rulings - HALLEX - Acquiescence Rulings - Case Law	Barry Eigen, Office of Disability Policy
12:30 -1:30	<b>LUNCH</b>	
1:30-2:30	<b>Brief Framework and Background of SSA Programs – Title II, Title XVI, CDRs, RSI, Childhood</b>	Lizabeth Calvo, Office of Income Security Policy

2:30-3:30	<b>Structure of the Claim File (Walk through the 6 Part File)-eFolder</b>	Judge Stephens Judge Goldstein
3:30-3:45	<b>BREAK</b>	
3:45-4:30	<b>ALJ Hearing Procedures 20 CFR 404.944.953</b>	Judge Maxwell Judge Dilley
<b>Day 2</b> <b>Wednesday, October 13, 2010</b>		
8:00-8:15	<b>Review and Q&amp;A</b>	Judge Stephens Judge Dilley
8:15-9:15	<b>Concept of Insured Status</b> <ul style="list-style-type: none"> <li>- Significance of DLI</li> <li>- Period at Issue in Title II vs. Title XVI</li> </ul>	Judge Sweeda Judge Dilley
9:15-10:15	<b>Overview of the Sequential Evaluation Process</b> <ul style="list-style-type: none"> <li>- CFR 404.1520</li> <li>- SSR 86-8</li> </ul>	Judge Stephens Judge Weiss
10:15-10:30	<b>BREAK</b>	
10:30-11:15	<b>Step 1 - Substantial Gainful Activity: 20 CFR 404.1571-1576</b> <ul style="list-style-type: none"> <li>- SSRs 83-33, 83-34, 83-35 &amp; 84-25</li> <li>- Wage Earners, Self-Employed, Sheltered Work, and Unsuccessful Work Attempt</li> </ul> Exercises/Problems	Judge Maxwell Judge Goldstein
11:15-12:15	<b>SGA Case Study</b>	Judge Maxwell Judge Goldstein
12:15-1:15	<b>LUNCH</b>	
1:15-2:00	<b>Signs, Symptoms and Laboratory Findings</b> <ul style="list-style-type: none"> <li>- Definition</li> <li>- Medically Determinable Impairment</li> <li>- S, Sx and LF in the Medical Evidence</li> <li>- Gold Standard in Diagnostic Tests</li> </ul> Tests Administered by DDS	Judge Stephens Judge Dilley
2:00-3:00	<b>Medical Terminology and Common Abbreviations</b>	Judge Sweeda Judge Goldstein
3:00-3:15	<b>BREAK</b>	
3:15-4:00	<b>Step 2 – Severe Impairment:</b> CFR 404.1521-1523; SSRs 85-28, 96-3p and 96-4p	Judge Sweeda Judge Weiss
4:00-4:30	<b>Q&amp;A Steps 1 and 2</b>	ALJ Instructor Team

Day 3 Thursday, October 14, 2010		
8:00 -8:15	<b>Review and Q&amp;A</b>	Judge Stephens Judge Dilley
8:15-9:15	<b>Step 3 – Meets/Equals a Listed Impairment (Overview)</b> - CFR 404.1525-1526; Listing of Impairments; SSR 96-6p - Exercises for Step 3	Judge Stephens Judge Dilley
9:15-10:30	<b>Q&amp;A Steps 1, 2, and 3</b>	ALJ Instructor Team
10:30-10:45	<b>BREAK</b>	
10:45-12:15	<b>Respiratory Medical Lecture</b>	Dr. Bernard Ferrell, Medical and Vocational Policy
12:15-1:15	<b>LUNCH</b>	
1:15-2:45	<b>Cardiovascular Medical Lecture</b>	Dr. Steven Steinberg, Medical and Vocational Policy
2:45-3:00	<b>BREAK</b>	
3:00-4:30	<b>Review of Case with Respiratory and Cardiovascular and Impairment</b>	Judge Stephens Judge Weiss
Day 4 Friday, October 15, 2010		
8:00-8:30	<b>Review Step 3 and Q&amp;A</b>	Judge Stephens Judge Dilley
8:30-10:00	<b>Medical Lecture on Mental Impairments</b>	Dr. Charles Lawrence, ODP – Medical and Policy
10:00-10:15	<b>BREAK</b>	
10:15-12:00	<b>Discussion of Mental Impairments</b> - Section 12.00: CFR 404.1520a - A, B and C Criteria - Discuss Psychiatric Review Technique Form - Review Basic Work Activities (Mental) - Relationship of B Criteria to Work Capacity - SSR 85-16	Judge Sweeda and Judge Maxwell  Judge Goldstein and Judge Dilley

12:00-1:00	<b>LUNCH</b>	
1:00-2:30	<b>Review of Case with Mental Impairment</b>	Judge Maxwell Judge Goldstein
2:30-2:45	<b>BREAK</b>	
2:45-4:00	<b>Review of the Week</b>	Judge Stephens Judge Dilley
4:00-4:30	<b>Evaluations</b>	Judge Stephens Judge Dilley

**Day 5**  
**Monday, October 18, 2010**

8:00 -9:00	<b>Introduction of New Instructors Review of Prior Week Presentations</b>	ALJ Instructor Team
9:00 -10:15	<b>Residual Functional Capacity</b> - Elements (404.1545 and SSR 96-8p) - Exertional Capacity and SSR 83-10)	Judge Heitz Judge Pang
10:15 -10:30	<b>BREAK</b>	
10:30 -11:30	<b>Residual Functional Capacity – cont.</b>	Judge Heitz Judge Pang
11:30 -12:30	<b>LUNCH</b>	
12:30 -1:30	<b>Review "Daniel" Case File (medical evidence)</b>	Judge Stanley Judge Hatfield
1:30 -2:30	<b>Evaluation of Medical Opinions: CFR 404.1527</b> - SSRs 96-2p, 96-5p, 96-6p - Non-Treating Source/Non-Examining Source - SSR 06-3p	Judge Kunz Judge Morgan
2:30 -2:45	<b>BREAK</b>	
2:45 -4:00	<b>Evaluation of Medical Opinions: CFR –cont.</b>	Judge Kunz Judge Morgan
4:00 -4:30	<b>Outlining Exercise "Daniel"</b> - Evaluation of Opinion Evidence - Group Exercise	Judge Stanley Judge Pang

**Day 6**  
**Tuesday, October 19, 2010**

8:00 -8:15	<b>Review and Q&amp;A</b>	ALJ Instructor Team
8:15 -9:45	<b>Evaluation of Subjective Complaints</b> <ul style="list-style-type: none"> <li>- Discussion of Issues Reserved to the COSS</li> <li>- CFR 404:1529; SSR 96-7p</li> <li>- Review Daniel Case File (subjective complaints)</li> <li>- Group Exercises</li> <li>- Q &amp; A Period</li> </ul>	Judge Stanley Judge Hatfield
9:45 -10:00	<b>BREAK</b>	
10:00 -11:15	<b>Evaluation of Subjective Complaints</b>	Judge Kunz Judge Hatfield
11:15 -12:15	<b>LUNCH</b>	
12:15 -2:15	<b>Phrasing/Writing of Rationale in "Daniel"</b>	ALJ Instructor Team
2:15 -2:30	<b>BREAK</b>	
2:30 -3:15	<b>Phrasing/Writing of Rationale in "Daniel" – cont.</b>	ALJ Instructor Team
3:15 -4:30	<b>Group Discussion of Rationale in "Daniel"</b> <ul style="list-style-type: none"> <li>- Sample Decisions for "Daniel"</li> <li>- Discuss Phrasing Instructions to Decisions Writers in "Daniel"</li> <li>- Q &amp; A Period</li> </ul>	ALJ Instructor Team

## **Appendix G**

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### **Agency Comments**



## SOCIAL SECURITY

### MEMORANDUM

Date: September 26, 2011 Refer To: S1J-3

To: Patrick P. O'Carroll, Jr.  
Inspector General

From: Dean S. Landis /s/  
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "Training of New Administrative Law Judges at the Office of Disability Adjudication and Review" (A-12-11-11126)--INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Frances Cord at (410) 966-5787.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,  
“TRAINING OF NEW ADMINISTRATIVE LAW JUDGES AT THE OFFICE OF  
DISABILITY ADJUDICATION AND REVIEW” A-12-11-11126**

**Recommendation 1**

Remind hearing office managers to discuss the new-hire training requirements timely and provide the training material to all newly hired administrative law judges (ALJ).

**Response**

We agree.

**Recommendation 2**

Consider modifying the 4-week classroom training to accommodate ALJs with differing levels of experience with the Agency’s programs.

**Response**

We agree.

**Recommendation 3**

Ensure ALJs have a mentor assigned during the three-phase training program, and when possible, assign mentors who are in the same hearing office.

**Response**

We agree.

**Recommendation 4**

Ensure ALJs are part of a process where they can periodically discuss their training needs with more senior ALJs and managers in the hearing office to assist with their ongoing development.

**Response**

We agree.

## **Appendix H**

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# OIG Contacts and Staff Acknowledgments

### ***OIG Contacts***

Walter Bayer, Director, Chicago Audit Division

Nicholas Milanek, Audit Manager, Falls Church Audit Office

### ***Acknowledgments***

In addition to those named above:

Mary Ann Braycich, Evaluator-in-Charge

For additional copies of this report, please visit our Website at <http://oig.ssa.gov/> or contact the Office of the Inspector General's Public Affairs Staff Assistant at (410) 965-4518. Refer to Common Identification Number A-12-11-11126.

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The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Counsel to the Inspector General (OCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

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OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

### **Office of Investigations**

OI conducts investigations related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

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