



Philippine
Overseas
Employment
Administration

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Department of Labor and Employment
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MEMORANDUM CIRCULAR NO. 08
Series of 2021

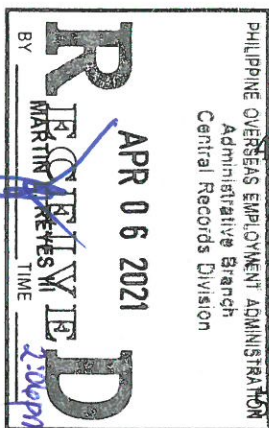
In the interest of service and in furtherance to the Memorandum Circular Nos. 10, 10-A and 10-B, Series of 2020 the following guidelines shall govern the filing of pleadings, issuance of Notice/Orders and conduct of hearings at the Adjudication Office while the entire country remains to be in different levels of Community Quarantine due to the COVID-19 Pandemic:

A. General Provisions

1. These Guidelines are issued to govern the conduct of hearings aside from face-to-face interactions between the Complainant, Respondent and the handling Overseas Employment Adjudicator/Hearing Officer (OEA/HO) while there is a community quarantine imposed by the Government;
2. Considering the entire country remains to be in different levels of Community Quarantine due to the rising incidents of COVID19 and to further mitigate the transmission of the virus, there is a continuing need to minimize the number of individuals attending face-to-face hearings. In this view, all OEAS are now authorized to conduct videoconferencing in order to avoid any further delay on the disposition of the pending cases before them.
3. The conduct of videoconferencing shall be considered *as an alternative mode* to face-to-face proceedings, which remains to be the primary mode in hearing cases. The presiding OEA shall, at all times, supervise and control the proceedings.

These Guidelines provide the procedures and legal requirements necessary to facilitate the conduct of videoconference hearings with due regard and reference to the Rules issued by the Supreme Court and the Department of Labor and Employment and Philippine Overseas Employment Administration; and

The integrity and validity of the proceedings held under these Guidelines shall be the same as those held face-to-face inside the hearing area at the Adjudication Office.



B. Definition of Terms

1. Videoconferencing hearings and proceedings, including the taking of testimony, conducted through videoconferencing technology, or the use of video, audio, and data transmission devices allow participants in different physical locations to simultaneously communicate by seeing and hearing each other.

Videoconferencing hearings can be fully or partially remote:

- i. Fully-remote videoconferencing hearings - videoconferencing where none of the participants is physically present in POEA and the participants appear from remote locations using the authorized platform.
 - ii. Partly-remote videoconferencing hearings - videoconferencing where at least one of the participants appears physically in POEA, while the others appear from remote locations or all parties are present in POEA but in different areas, using the authorized platform.
2. *Branch* - may refer to either Adjudication Branch or Recruitment Regulation Branch of the Adjudication Office.
 3. *Regional Office* - refers to the POEA Regional Centers, Satellite or Extension Offices.

C. Coverage and Applicability

1. These Guidelines shall apply to hearings of all cases whether newly filed or pending, before the Adjudication Office including the Regional Offices.

D. Remote Appearance of the Parties and the Overseas Employment Adjudicators/Hearing Officers

1. Any of the parties may opt to attend the hearing, in person, at the Adjudication Branch (AB), Recruitment Regulation Branch (RRB) or



Regional Offices, or connect remotely upon request, via **online platform**.

2. Upon filing of the case, the complainant who opts to attend the hearing remotely must signify his intention to do so by ticking the box stamped on the complaint.

In all cases, a party or counsel may file a written request for the conduct of videoconferencing.

The requesting party shall include in the request the following:

- a. Complete name (Given Name, Middle Name and Surname);
- b. Complete address;
- c. E-mail address
- d. Contact Number
- e. Ground/s for the Request – The requesting party must cite meritorious grounds for opting for a remote videoconferencing.

The requesting party must include in the request supporting documents for the specific ground relied upon in his/her request.

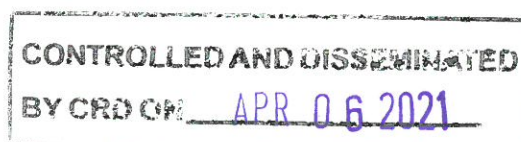
The Show Cause Orders, Summons and Notices shall contain the name of the OEA/HO with his/ her official email address.

3. Grounds for filing the Motion

- a) IATF Resolutions relative to COVID19;
- b) Travel Restrictions issued by National Government or the LGU where he/she resides;
- c) Exposure to a COVID19 patient;
- d) Parties with existing comorbidities or living with persons that have existing comorbidities and
- e) Other similar grounds.

4. The OEA/HO shall conduct hearings on the days that he/ she reports to the office;

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The Outlook application shall be used for the official e-mail accounts, and the Teams application shall be used to host the videoconferencing hearings. In case of non-availability of the official platform, the OEA may use other secured platform for the hearings.

5. In the conduct of partly remote videoconferencing hearings where all parties are all present in POEA but in separate rooms, the Information and Communication Technology (ICT) Branch shall provide computers for the use of the litigants.

E. Procedure for the conduct of Videoconferencing Hearings

1. *Official software and platform for videoconferencing.* – OEA shall conduct videoconferencing by using only the secure software or platform authorized and provided by the POEA, which contains or integrates the official e-mail accounts of the OEAs and an application to host the virtual hearings, with the capacity to record and store the same.
2. *Service of Notice of Hearing.* - In addition to the regular mode of service, the parties shall be notified of the hearings through electronic means ie. Email addresses, Facsimile, Short Messaging Service (SMS). The notification shall indicate the time and date when the videoconferencing hearing shall be held and contain a link (access code).
3. *Invitations and links for videoconferencing.* – The following shall be observed prior to a videoconferencing:

The Branch shall send out to all concerned participants' respective e-mail addresses the invitation or link to the videoconferencing at least twenty-four (24) hours before the scheduled hearing. Separate invitations or links shall be sent for morning and afternoon videoconferencing sessions.

Upon receipt of the invitation or link, participants shall immediately respond to the invite or send an acknowledgement e-mail confirming the receipt of the link to the videoconferencing. Proofs of receipt of the invitations shall be properly recorded by the OEA.

Any participant who has not received an invitation or link at least twenty-four (24) hours before the scheduled videoconferencing, or who cannot



access it shall immediately inform the Branch of such fact through e-mail, phone call, or other electronic means.

The invitation or link must be treated with strict confidentiality and shall not be shared by its recipient with any other person. However, in the case of counsel, if they are unable to participate in the scheduled videoconferencing and have to be substituted by another, they must inform the Branch at least twenty-four (24) hours before the scheduled hearing so the OEA may notify the substitute counsel. The unauthorized sharing of the invitation or link shall be a ground for removal of the unauthorized party from the videoconferencing.

Participants appearing remotely must be at the *virtual* or *waiting lobby* at least twenty (20) minutes before the scheduled videoconferencing.

4. *Personal filing, electronic filing and service of pleadings and other submissions.* – Personal, electronic filing and service of pleadings shall be governed by the POEA Rules and suppletorily by the relevant provisions of the Rules of Court and pertinent or relevant issuances of the Supreme Court.

Recruitment	: <u>poea.rrb@gmail.com</u>
Regulation Branch	
Adjudication	:
Branch	<u>adjudbranch01_poea@yahoo.com</u>

(To include the email addresses of Regions)

5. *No cancellation of scheduled videoconferencing hearings.* – Except on meritorious grounds, the OEA shall not cancel nor grant the request for cancellation by any party of the scheduled videoconferencing hearings.
6. *Minutes of fully-remote and partly-remote videoconferencing hearings.* – When either or all of the parties are not physically present at the POEA hearing area, it is sufficient that the minutes of the videoconferencing hearings is signed by the presiding OEA, which shall form part of the records of the case. The parties must verbally manifest their conformity to the minutes.



7. *Access to POEA Hearing Areas.* – In case of partially remote hearings at the POEA, only those with scheduled hearings either through NOTICE or ONLINE APPOINTMENT (email) shall be allowed entry in the hearing area on the scheduled hearing day;
8. *Health Declaration.* - The Parties shall be required to fill up an online/hardcopy of a Health Declaration/Contact Tracing Form before they are allowed entry into the POEA Building.
9. *Postponement of Hearing Schedule.* - The schedule of hearing for partially remote videoconferencing may be postponed depending on the quarantine classification by the IATF. At the option of the parties and with the conformity of the OEA the conduct of hearing may be done under fully remote videoconferencing.
10. *Staff on Duty.* - A Staff on Duty for each BRANCH shall be assigned on each hearing day to assist the parties in the conduct of hearing.

Similarly, the staff at the POEA Regional Offices (Regional Centers, Regional Extension Unit and Satellite Offices) may provide the facilities/technical assistances to OFWs/Parties appearing remotely at their offices for the videoconferencing.

11. *Request for Copies of Documents.* - Parties may request for copies of pertinent documents via email at least three (3) days before the appointed date. The staff on Duty shall ensure that the requested documents are available on the appointed date.
12. *Reception of Evidence at the Regions.* - The OEA/HO may, upon written request of any of the parties, refer to the POEA Regional Offices the reception of documentary evidence pursuant to Special Order No. 223, Series of 2020. The Regional Offices shall endorse the received evidence to the Adjudication Office for inclusion in the case record.
13. *Technical personnel in remote locations.* – Where parties and witnesses are testifying from remote locations, there must be technical personnel present in these remote locations to assist and address technical issues that may arise during the videoconference. In the absence of technical personnel, the parties or witnesses testifying



remotely shall assure the OEA of their capability to address technical issues.

14. *Virtual inspection of remote locations.* —At the start of the videoconferencing hearing, the OEA shall require participants at remote locations to pan their cameras across the room to demonstrate that they are alone in the room, the windows and doors are closed, and there are no unauthorized means of communication available to them. This is to ensure that there will be no coaching or disturbance that may affect the proceedings.
15. *Indication in case records of the conduct videoconferencing and the locations of participants.* - The conduct of videoconferencing and the respective locations of the participants shall be indicated in the case records. Minutes issued during the videoconferencing hearings shall reflect such facts, including any inconvenience or difficulty experienced, and technical Issues encountered which might affect the regularity of the proceedings.
16. *Prohibition on Recording of Proceedings by the Parties.* - To ensure the integrity and confidentiality of the proceedings and the documents which may be submitted in the course thereof, either party to the case who participates in the videoconferencing are absolutely prohibited from taking unauthorized recording of the proceedings. The POEA, including its Regional Offices (Regional Centers, Regional Extension Units and Satellite Offices) shall have control over the recordings, subject to the provisions of the Data Privacy Act.

F. Presentation of Evidence

1. *Documentary evidence* - Legible electronic copies of these documents shall also be made available through e-mail. During the videoconferencing, the OEA may direct a counsel to share documentary evidence on-screen. Means shall be provided for sharing and viewing these documents for purposes of identification and presentation such as through document cameras, digital screen-sharing function of the videoconferencing software or platform, and other electronic means.



Should the exhibition, examination or viewing of the documentary evidence be rendered impossible, insufficient or difficult by the limitations of the platform or for some other compelling reasons, face-to-face hearings may instead be ordered by the OEA for the purpose of presenting or completing the testimony of a witness.

2. *Object evidence.* — Object evidence may be presented during videoconferencing if the same can be exhibited to, examined or viewed by all participants, by displaying the object on the screen, or physically showing it to the witness testifying thereto at his or her location within full view of the participants.

Should the examination of the object evidence be rendered impossible, insufficient or difficult by the limitations of the platform or for some other reasons, the OEA may direct that face-to-face hearings be held instead for the purpose of presenting the same for examination or identification, presenting or completing the testimony of the witness.

This Circular shall take effect immediately and supersedes prior POEA issuances relative to the resumption of hearings at the Adjudication Office. All other provisions of Memorandum Circular Nos., 10, 10-A and 10-B not inconsistent with this Circular shall remain effective.

For strict compliance.



BERNARD P. OLALIA
Administrator

