



INDUSTRIAL COMMISSION OF **ARIZONA**

Administrative Law Judge Division

Hearing Process after Appeal from a determination of the Labor Department

FREQUENTLY ASKED QUESTIONS (FAQs)

Can I download a document that contains all of these questions and answers?

Yes, click **[on link to the FAQs document.](#)**

Where can I find information about the hearing process?

These Frequently Asked Questions (“FAQs”) provide general information regarding the hearing process after an appeal from an Award entered by the Labor Department. They are not intended to address every situation or every issue that may come up in the hearing process. This information should not be considered legal advice.

Where can I get the laws and rules that apply to appeals from Labor Department determinations?

The Labor Department page on the Industrial Commission website has links to the statutes and rules that apply to various types of Labor Department matters. The link to the Labor Department page is:
<https://www.azica.gov/divisions/labor-department>.

The ALJ hearing process is governed by both the rules and statutes cited on the Labor Department page, Article 6 of Arizona’s Administrative Procedure

Act (Arizona Revised Statutes (“A.R.S.”), Title 41, Chapter 6, Article 6), and Ariz. Admin. Code (“A.A.C.”) Title 20, Chapter 5, Article 12.

What happens when a party requests a hearing following a Labor Department determination? (Example: Findings and Order, Cease and Desist Order)

Where appropriate, the Labor Department refers the Request for Hearing to the Administrative Law Judge (“ALJ”) Division and an ALJ case is created. The Chief ALJ will assign the case to an ALJ who will preside over the case. In most cases, the presiding ALJ will schedule a pre-hearing conference (or conferences) with the parties and a hearing. The presiding ALJ will send notices to the interested parties that informs them of conference and hearing dates. The ALJ will also send the parties additional information that contains important deadlines. All interested parties are required to keep the ALJ and the Labor Department apprised of their current mailing address.

The Labor Department will not refer cases to the ALJ Division if a claimant’s complaint has been dismissed without prejudice. For these cases, please refer to the Labor Department determination. (Example: Findings and Order).

What is an ALJ?

An Administrative Law Judge (“ALJ”) is a commission-appointed agency judge who will hear your case. The ALJ will schedule hearings, rule on motions, listen to testimony presented by you and any other witnesses, review evidence, make factual determinations, apply the law to the facts of your case, and issue a written decision after the last hearing.

Do I need a lawyer? Am I required to represent myself at the hearing? Am I required to hire an attorney? Can I have a non-attorney family member/friend attend to assist or represent me?

The ALJ Division cannot provide legal advice, including whether you need a lawyer. Parties are not required to have attorneys to participate in the hearing process. Individuals appearing on behalf of legal entities (such as an LLC or corporation) must meet the requirements of Arizona Supreme Court Rule 31.3. Self-represented parties are charged with knowledge of the rules and law that apply to the case. A non-attorney family member or non-attorney friend cannot represent an individual.

What if I change my address while my case is in the ALJ Division?

To update your address during litigation, you are required to send a written notification of your new address to the ALJ Division. Be sure to send a copy of this notification to all parties. You may deliver the notification in person at the Industrial Commission, or you may send it by fax, mail, or you may file it through the ICA Community.

How long does it take for the hearing to be held?

The hearing will be scheduled to occur approximately 90 days from the date when the case is assigned to an ALJ. This time permits the parties adequate time to exchange information, question witnesses, and submit evidence. Should the parties require additional time, they are instructed to send a request to the presiding ALJ. (A copy is required to be sent to opposing parties.)

What is the difference between a prehearing conference and a hearing?

A pre-hearing conference is a meeting that the ALJ schedules with the parties to discuss the case. Often, the ALJ will make sure that the parties understand their deadlines and obligations in the lead-up to the hearing. The ALJ may ask questions or request clarification concerning the issues that need to be decided, any applicable defenses, and the witnesses and evidence to be presented. The ALJ may use the conference to narrow the issues, when possible. If there are pending motions or discovery disputes, the ALJ may address and rule on those items at the pre-hearing conference.

The hearing is the parties' opportunity to present their case; provide testimony; and make statements or arguments in support of their respective positions. After the hearing, the record is typically closed to additional evidence or testimony.

What happens if I do not attend the prehearing conference?

At the prehearing conference, the ALJ may make determinations concerning evidence submission, witnesses, or other details that may affect the handling of the case. If you are not present, the ALJ may make these determinations in your absence.

What happens if I do not attend the hearing?

If you do not attend the hearing, you will not be able to present your case. This means that you will not be able to testify on your own behalf, examine or cross-examine witnesses, or make arguments in support of your position.

If you bear the burden of proof and fail to appear at the hearing, the ALJ will make a decision based on the record as it exists at the time of the hearing. This may result in a determination that is adverse to you.

What if I want to change the date of my hearing or my prehearing conference?

You may request such a change by filing a written request to the presiding ALJ. (A copy of the request must be sent to the other parties.)

What if I change my mind about having a hearing?

If you requested a hearing and then decide you do not want to proceed with the hearing, you may file a written notification to the ALJ indicating that you do not wish to proceed with the hearing and that you are withdrawing your request. The presiding ALJ may dismiss your Request for Hearing and cancel any pending calendar events, or the ALJ may require additional information before taking action.

What is the Industrial Commission of Arizona Community? (sometimes referred to as ICA Community or the portal)

ICA Community is an electronic document and case management system available for use by interested parties.

It allows interested parties to obtain electronic access to the ALJ case they are involved in, including access to electronically filed evidentiary submissions, correspondence, motions, or other communications to the presiding ALJ. It also provides interested parties with access to the case calendar to view the status of conferences and/or hearings in the ALJ case.

Submitting a document electronically does not constitute service of the document. Anything submitted electronically must be served on the other interested parties and the submission should indicate that the document was served.

How do I access ICA Community?

You can access ICA Community to view and submit documents in your case following these steps:

1. In a Google Chrome browser, navigate to <https://azica.my.site.com/claims/s/>.
2. New users must register an account before gaining access to a case. Existing users do not need to register each time.
3. To access a case, select the Non-Workers Compensation Case option.
4. Enter the ALJ case number (ex. ALJ0012345) and the requesting party type (Claimant, Employer, Applicant Attorney, Defense Attorney, Carrier/TPA).
5. Fill out all required fields.
6. Completion of the upload process may take up to 24-48 hours.

Am I allowed to download/print documents from ICA Community?

Yes.

Note that there are special rules concerning downloading and reproducing hearing transcripts from ICA Community (if any exist). Such transcripts will contain instructions for their use and reproduction.

Can I submit evidence for the hearing?

Yes.

Do I have to submit evidence for the hearing?

The ALJ hearing process is considered *de novo*, which means that the hearing is being held without regard to any previous Labor Department findings. Evidence in the Labor Department file is not automatically part of the ALJ file. Therefore, the parties are responsible for submitting any evidence they believe will help establish their position.

How do I submit evidence for the hearing?

You may submit evidence in person at the Industrial Commission, by fax, mail, or by filing in ICA Community.

NOTE: To ensure that your evidence is properly filed, the ALJ case number (found on your hearing notice) must be included on the cover sheet with all submissions. When possible, consolidate your filing into one document with multiple exhibits as opposed to separate filings.

Do I have to give the other parties copies of everything I file with the ALJ?

Yes, you must provide a copy of any case submissions or communications to the ALJ to all other parties (or their authorized representatives).

Are there deadlines for the submission of evidence for the hearing?

Yes. The information that accompanies your Notice of Hearing will outline the evidentiary deadlines in your case. Please note that these deadlines are subject to change in the ALJ's discretion.

Will I be required to testify?

If you are bringing the claim, you will likely bear the burden of proof and will need to testify on your behalf.

Can I appear over the phone, or do I need to appear by video or in person?

As a general rule, if you are bringing the claim or representing a party in a claim, you must appear either on camera or in person. Additionally, any testifying witness must appear either on camera or in person. If you lack the ability to appear by video in a remote hearing, please make other arrangements by contacting the presiding ALJ at the number provided on the Notice of Hearing.

Note: The presiding ALJ may make a case-specific determination that permits a party or witness to appear telephonically.

Can I bring other witnesses or people that support my claim?

You may request additional witness testimony. The information that accompanies your Notice of Hearing will outline the deadlines for disclosing witnesses. Please note that these deadlines are subject to change at the ALJ's discretion.

How do I get witnesses to come to the hearing? Do I need to subpoena witnesses?
How do I subpoena a witness?

You may request additional witness testimony. Often, parties will disclose witnesses and, if permitted by the ALJ, the witnesses will voluntarily appear at a hearing to testify. Other times, parties may request that an ALJ subpoena witnesses on their behalf. The information that accompanies your Notice of Hearing will outline the deadlines for disclosing witnesses or requesting witness subpoenas. Please note that these deadlines are subject to change in the ALJ's discretion.

Do I have to pay witnesses to testify?

Typically, lay witnesses will testify without requesting payment for their testimony. Should you require a witness who requires payment, the witness is paid in accordance with A.R.S. 41-1062(A)(4).

How long will my hearing take?

Labor case hearings are typically allotted two hours. The actual time may vary depending on the nature of the case. Depending on the number of witnesses, there may be multiple hearings.

What will the hearing be like?

Labor case hearings before the ALJ Division are typically held via video conference. They tend to begin with the ALJ reciting the relevant case history and issues raised. Then the ALJ will permit the parties to take testimony, often beginning with the party that bears the burden of proof (typically starting with the claimant). After all witnesses have testified, the ALJ will permit the parties to make closing arguments. Occasionally, parties request an opportunity to submit post-hearing briefs; sometimes the ALJ may request them as well. Once the parties have completed their oral arguments or submitted their briefs, the hearing record will be closed and the matter will be submitted for a decision. The ALJ will review the record and then issue a decision outlining findings of fact and conclusions of law. If any party disagrees with the outcome, there is language at the bottom of the decision explaining their review/appeal rights.

Will there be a written record of the hearing? How is the record of the hearing created?

The hearing will be recorded digitally and an audio recording of the hearing will be maintained. A transcript of the hearing is not created in every case. An interested party may request transcription of the hearing. If requested, a transcript will be created and the costs of the transcript will be the responsibility of the requesting party pursuant to A.R.S. § 41-1062(a)(1).

Is a decision made on the day of the hearing? When is a decision made in the case?
How long after the hearing will it be before a decision is made?

An oral decision will not be made from the bench at the end of the hearing. The ALJ will review the record and then issue a decision outlining findings of fact and conclusions of law. If any party disagrees with the outcome, there is language at the bottom of the decision explaining the review/appeal rights. Decisions are issued in accordance with Arizona law. (See the Arizona Administrative Procedure Act and relevant statutes and regulations for more information.)

What is the process if I disagree with the decision in the case?

If any party disagrees with the outcome of a particular decision, they are directed to the review/appeal rights language at the end of the decision.

Can I have the other party pay my attorney fees?

The ability to recover attorney fees and costs varies by case type. The parties are directed to review relevant statutes and regulations for more information.

Why can't I request a hearing if the Labor Department dismisses my minimum wage or earned paid sick time complaint without prejudice?

Pursuant to A.A.C. R20-5-1213(D), if the Labor Department determines that there was no violation of the Act or reaches a conclusion based on the evidence submitted, it dismisses the complaint without prejudice. Under those circumstances, the claimant may then bring a civil action (pursuant to A.R.S. § 23-364[E]). ALJ review is not an option.