Policies Manual

Through December 31, 2025

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STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:	**22-1**
Date:	December 8, 2022
Effective Date:	December 8, 2022
Re:	Contract Hearing Officer Compensation, FY23

<u>PURPOSE</u>: To establish the standard hourly rate for contract Hearing Officers for the remainder of FY23 (through June 30, 2023).

<u>APPLICABILITY</u>: This rate applies to all contract Hearing Officers retained by OAH on an hourly rate basis.

<u>AUTHORITY</u>: I.C. §67-5282(1)(i)

<u>POLICY</u>: For the remainder of FY23 (through June 30, 2023), non-specialized contract Hearing Officers retained by OAH shall be paid at a rate of $150/hr., which has been determined to be a reasonable and consistent rate of compensation for such services.

Approved: _____
Chief Administrative Hearing Officer

Policy No.:	**22-2**
Date:	December 16, 2022
Effective Date:	December 16, 2022
Re:	Bar Licensing and Section Memberships, OAH Hearing Officers

<u>PURPOSE</u>: To establish reimbursement policy for bar licensing and section membership for in-house OAH Hearing Officers.

<u>APPLICABILITY</u>: This applies to all Hearing Officers who are full-time employees of OAH, including the Chief and Deputy Chief.

<u>AUTHORITY</u>: I.C. §67-5282(1)(g) and (h)

<u>POLICY</u>: For the 2023 ISB renewal cycle, OAH will pay for license renewals for all in-house OAH Hearing Officers, including the Chief and Deputy Chief. Additionally, OAH will pay for membership in up to four (4) ISB sections; two (2) sections must be the Dispute Resolution and Government Sections, and the additional two (2) sections must be related to agency work.

Approved: _____
Chief Administrative Hearing Officer

Policy No.:	**22-3**
Date:	December 16, 2022
Effective Date:	December 16, 2022
Re:	Billing Guidelines for Contract Hearing Officers, FY23

<u>PURPOSE</u>: To establish billing guidelines for contract hearing officers for FY23.

<u>APPLICABILITY</u>: This applies to all contract hearing officers.

<u>AUTHORITY</u>: I.C. §67-5282(1)(i)

<u>POLICY</u>: For the remainder of FY23 (through June 30, 2023), contract Hearing Officers shall be provided, and shall adhere to, the attached billing guidelines.

Approved: _____
Chief Administrative Hearing Officer

IDAHO OFFICE OF ADMINISTRATIVE HEARINGS
BILLING GUIDELINES

These billing guidelines govern all bills submitted by contract Hearing Officers to the State of Idaho through the Office of Administrative Hearings. Copies of all such bills should be sent to the Office of Administrative Hearings, Attn: Billing, P.O. Box 83720, Boise ID 83720 or to general@oah.idaho.gov (please include "Billing" and case number in the subject line).

Billing Timelines

1. Bills are to be submitted monthly, no later than the 15th of each month.

2. Final bills should be submitted within 30 days after conclusion of the case/matter.

General Principles

1. Bills must be supported by time sheets and invoices, which must be provided with the bill.

2. Hours should be recorded contemporaneously, not reconstructed after the fact.

3. Only the actual hours worked may be billed. Time spent in developing a work product for another client should not be charged. You were chosen for your expertise and it is assumed such efficiencies are routine. Value should not be added to billings for such efficiencies without prior approval.

4. The only timekeeper approved for billing is the contract Hearing Officer.

Billing Format

1. Each bill should contain on its face the case/matter caption, the claim/case number (if applicable), the billing period, and the firm or attorney tax identification number. Each case/matter should be billed on a separate page.

2. Each entry must indicate the date work was performed, the hours billed, a description of the services performed, and the total amount billed for that entry. Entries should be made in chronological order.

3. Each entry should be recorded to the nearest one-tenth of an hour.

4. If several separate tasks or activities are performed on a single day, each task or activity should become a separate billing entry or, if listed together, should disclose the time spent for each such task or activity with the requisite description. Disparate activities lumped together in a single large block of time are not payable.

5. The task description should identify each task separately and in sufficient detail to permit OAH to ascertain the purpose of the task.

6. If research is performed, the purpose, topic, and related work product should be identified. It is not sufficient, for example, to state, "Legal research." An acceptable entry would state, "Legal research re: docks on navigable waters."

7. Each billing should state the date the file was opened and the total number of days to date that the file has been open.

8. The total fees and expenses for the current billing period and the total fees and expenses billed to date on the case/matter should be separately included on the summary page.

Unreimbursable Expenses

The following expenses are considered normal overhead and are not reimbursed unless they are extraordinary in nature and are approved in advance.

1. Secretarial, clerical or word processing services (regardless of whether the services are normal, temporary or overtime).

2. Other charges for support staff, e.g., meals, filing, proofreading.

3. Computer time.

4. Office supplies.

5. Local telephone calls or local facsimile transmissions.

6. Postage.

7. In-town meals.

8. Amenities (on road) such as entertainment, dry cleaning, reading materials, and alcoholic beverages.

9. Time spent preparing billings or reviewing disputed billings.

Reimbursable Expenses

The following expenses are reimbursable. They should be itemized and charged at actual cost without markup. Invoices and/or receipts should be accessible to the client upon request.

1.   Travel time is to be billed at one-half of the attorney's contract billing rate. Travel time may not be billed if it is used for work for another matter or another client of the contract hearing officer.

2.   Other travel costs will be reimbursed consistent with the State Travel Policy. https://www.sco.idaho.gov/LivePages/state-travel-policy-and-procedures.aspx

3.   Air transportation costs and lodging will be reimbursed, but must be approved prior to booking.

4.   Other travel expenses (e.g., car rental, taxis, parking) at cost.

Deviations from Guidelines

If, in your judgment, it is necessary to deviate from the above guidelines, pre-approval must be obtained.

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:	**22-4**
Date:	December 30, 2022
Effective Date:	December 30, 2022
Re:	Preferred Referral Pool

<u>PURPOSE</u>: To establish a preferred referral pool for recommendations to agencies for potential hearing officers for matters not handled by OAH.

<u>APPLICABILITY</u>: This applies to individuals placed in the Preferred Referral Pool.

<u>AUTHORITY</u>: I.C. §67-5280(2)(b)

<u>POLICY</u>: For permissive matters under I.C. §67-5280(2)(b), OAH is permitted to conduct such proceedings if "agreed to." Where OAH is unable to "agree to" provide such services (due to, e.g., conflicts, caseload, budget, etc.), a Preferred Referral Pool will exist to provide suggestions to the requesting agency for a hearing officer who the agency may directly contract with to provide such services. Such Preferred Referral Pool shall be comprised of all current members of the Contract Hearing Officer Pool, as well as such other individuals otherwise designated in the sole discretion of the Chief Administrative Hearing Officer. As such individuals are not OAH hearing officers, they will receive no compensation or reimbursement of any kind from OAH, nor are they subject to the qualifications required of OAH hearing officers. Agencies retaining such individuals from the Preferred Referral Pool shall be solely responsible for determining the qualifications for, and compensating, any such individuals.

Approved: _____

Chief Administrative Hearing Officer

Policy No.:   **22-5**

Date: December 30, 2022

Effective Date: December 30, 2022

Re: Conference Rooms

PURPOSE: To establish general guidelines regarding the location of in-person hearings by OAH hearing officers.

APPLICABILITY: This applies to all in-house and contract hearing officers.

AUTHORITY: I.C. §67-5282(1)(d), §67-5282(1)(g), and §67-5282(1)(h)

POLICY: Absent extenuating circumstances and advance approval by the Chief Administrative Hearing Officer or their designee, in-person hearings in contested case proceedings shall <u>not</u> be held in conference rooms at the agency involved in the proceedings, or otherwise at conference rooms used by a single agency. Instead, in-person hearings should be held at non-agency-specific "neutral" locations, such as conference rooms available for reservation through the Department of Administration at the Capitol Mall or Chinden locations, or, when established, at conference room(s) at OAH facilities. OAH will otherwise maintain a list of approved locations as they are identified, including locations outside of the Treasure Valley.

Approved: _____
                   Chief Administrative Hearing Officer

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:	**22-6**
Date:	December 30, 2022
Effective Date:	December 30, 2022
Re:	Acceptance and Assignment Benchmarks

PURPOSE: To establish benchmarks for acceptance of new matters and assignment of matters to hearing officers.

APPLICABILITY: This applies to all in-house OAH personnel.

AUTHORITY: I.C. §67-5282(1)(d) and §67-5282(1)(h)

POLICY: The following are established as quality-control benchmarks:

- <u>Acceptance of assignment of mandatory proceeding</u> – Within one (1) business day of an agency's transmittal of a mandatory proceeding (I.C. §67-5280(2)(a)), OAH will notify the agency of receipt and acceptance of the assignment.

- <u>Response to request for permissive proceeding</u> – Within three (3) business days of an agency's transmittal of a permissive proceeding (I.C. §67-5280(2)(b)), OAH will notify the agency of receipt of the request, and acceptance or refusal of the assignment.

- <u>Assignment of proceeding</u> – Within one (1) business day of OAH's receipt of needed case and party information following acceptance of an assignment, OAH will internally assign the matter to a hearing officer. Within one (1) business day after either assignment to an in-house officer or acceptance of the assignment by a contract hearing officer, OAH will issue a Notice of Assignment to the parties designating the handling hearing officer.

A record of the time for acceptance and assignment of each new proceeding sent to OAH after January 3, 2023 will be maintained by OAH Staff, and will be deemed part of the "system for monitoring the quality of contested case proceedings and such other proceedings as are conducted by the office of administrative hearings".

Approved: _____.

Chief Administrative Hearing Officer

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:	**23-1**
Date:	January 12, 2023
Effective Date:	January 12, 2023
Re:	Use of artificial intelligence

PURPOSE: To prohibit, on an interim basis, the use of artificial intelligence (AI) by Hearing Officers in preparing orders (including, but not limited to, preliminary orders, recommended final orders, and/or proposed final orders).

APPLICABILITY: All in-house and contract Hearing Officers.

AUTHORITY: I.C. §67-5201(21)(b)(i) & (iii); §67-5282(1)(f), (g), & (h)

POLICY: Hearing Officers, whether in-house or contract, are prohibited from utilizing artificial intelligence and/or chatbots (including, but not limited to, ChatGPT) in drafting, finalizing, or otherwise preparing orders to be issued by the Hearing Officer, including, but not limited to, preliminary orders, recommended final orders, and/or proposed final orders. This policy is interim in nature, until such time as the Code of Conduct is updated to address the use of artificial intelligence in such drafting.

Approved: _____
Chief Administrative Hearing Officer

Policy No.:	**23-2**
Date:	January 12, 2023
Effective Date:	January 12, 2023
Re:	Dress Code

PURPOSE: To establish a dress code for in-house Hearing Officers and contract Hearing Officers while presiding over proceedings for the Office of Administrative Hearings.

APPLICABILITY: All in-house and contract Hearing Officers.

AUTHORITY: I.C. §67-5201(21)(b)(i) & (iii); §67-5282(1)(d) & (h)

POLICY: Hearing Officers are expected to dress in business or business casual attire while conducting hearings, including hearings that are conducted remotely. The use of black robes or similar attire that imply judicial authority over the proceedings is not permitted.

Approved: _____
Chief Administrative Hearing Officer

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:   **23-3**

Date: January 20, 2023

Effective Date: January 20, 2023

Re: Use of facsimile machines

PURPOSE: To establish, on an interim basis, guidelines regarding the use of facsimile machines (hereinafter "fax machines")

APPLICABILITY: All in-house and contract Hearing Officers, and OAH Staff

AUTHORITY: I.C. §§67-5282(a), (d), & (h)

POLICY: With respect to the use of fax machines:

1. The Office of Administrative Hearings (hereinafter "OAH"), and hearing officers employed thereby, shall not use fax machines, either for the transmission or receipt of any documents or correspondence of any kind regarding any contested case proceeding in which an OAH-employed hearing officer presides; and

2. Hearing officers who are contracted with OAH may utilize fax machines in cases over which they preside in their sole discretion. However, as to any communications or transmissions between OAH and contract hearing officers, no fax machine use is permitted.

This policy is interim in nature, and will remain in effect until such time as OAH promulgates rules in accord with I.C. §67-5282(2)(c).

Approved: _____.
                 Chief Administrative Hearing Officer

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:   **23-4**

Date: January 27, 2023

Effective Date: January 27, 2023

Re: Personnel Policies

<u>PURPOSE</u>: To establish, on an interim basis, personnel policies that apply to all OAH employees.

<u>APPLICABILITY</u>: All OAH employees.

<u>AUTHORITY</u>: I.C. §67-5282(1)(a) & (d)

<u>POLICY</u>: Until such time as this policy is withdrawn, all model policies of the Idaho Division of Human Resources will apply to all employees of the Office of Administrative Hearings.

Approved: _____
           Chief Administrative Hearing Officer

Policy No.:	**23-5**
Date:	March 31, 2023
Effective Date:	March 31, 2023
Re:	Mediator/Arbitrator Rosters

<u>PURPOSE</u>: To establish standards for OAH mediators and arbitrators, and to establish rosters for contract mediators and arbitrators.

<u>APPLICABILITY</u>: All OAH mediators and arbitrators (in-house and contract).

<u>AUTHORITY</u>: I.C. §§ 67-5280(2)(b), & -5282(1)(a),(d), & (i)

<u>POLICY</u>: Separate rosters will be created for mediators and arbitrators (both in-house and contract). Details for each such roster, including minimum and ongoing training requirements, are as follows:

<u>Mediator roster</u>:

- <u>Contract rate</u>: $185/hr.
- <u>Minimum requirements/training</u>: Mediators must initially meet all statutory hearing officer requirements. Prior to addition to the roster, mediators must complete a 40-hour mediation training course from an accredited college or university, the Idaho State Bar, the Idaho Mediation Association, or the Society of Professionals in Dispute Resolution.
- <u>Ongoing training</u>: To remain on the mediation roster, no later than December 31, 2026, and for every three years thereafter, proof of completion of a minimum of five (5) hours of additional training or education during the preceding three (3) calendar years on one of the following topics: mediation, conflict management, negotiation, interpersonal communication, conciliation, dispute resolution or facilitation. This training shall be acquired by completing a program approved by an accredited college or

university or by one of the following organizations: Idaho State Bar, or its equivalent from another state; Idaho Mediation Association, or its equivalent from another state; Society of Professionals in Dispute Resolutions; American College of Civil Trial Mediators; Northwest Institute for Dispute Resolution; Institute for Conflict Management; the National Academy of Distinguished Neutrals; or any mediation training provided by the federal courts. For contract mediators, this requirement may be satisfied by proof of current listing on the Idaho Supreme Court's Civil Case Mediator list.

- Roster: The mediator roster will be maintained as a public webpage, to allow agencies to select a mediator of their choice if requested, as permitted by I.C. § 67-5284.

Arbitrator roster:

- Contract rate: $185/hr.
- Minimum requirements/training: Arbitrators must initially meet all statutory hearing officer requirements. Prior to addition to the roster, arbitrators must complete a minimum of 6 hours of arbitration-specific training from an accredited college or university, the Idaho State Bar, the Idaho Mediation Association, the Society of Professionals in Dispute Resolution, the American Bar Association, the American Arbitration Association, or the Judicial Arbitration and Mediation Services, Inc. (JAMS).
- Ongoing training: To remain on the arbitration roster, no later than December 31, 2026, and for every three years thereafter, proof of completion of a minimum of five (5) hours of additional training or education during the preceding three (3) calendar years in arbitration-specific topic areas. This training shall be acquired by completing a program approved by an accredited college or university or by one of the following organizations: Idaho State Bar, or its equivalent from another state; Idaho Mediation Association, or its equivalent from another state; Society of Professionals in Dispute Resolutions; American College of Civil Trial Mediators; Northwest Institute for Dispute Resolution; Institute for Conflict Management; the National Academy of Distinguished Neutrals; the American Bar Association; the American Arbitration Association; the Judicial Arbitration and Mediation Services, Inc. (JAMS); or any arbitration training provided by the federal courts.
- Roster: The arbitrator roster will be maintained internally.

Approved: _____.
                 Chief Administrative Hearing Officer

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:   **23-6**

Date: March 31, 2023

Effective Date: March 31, 2023

Re: Education/Training Requirements

<u>PURPOSE</u>: To establish standards for OAH hearing officers (in-house and contract) for initial and ongoing education and training.

<u>APPLICABILITY</u>: All OAH mediators and arbitrators (in-house and contract).

<u>AUTHORITY</u>: I.C. §67-5280(2)(b), & -5282(1)(a), (d), & (g)

<u>POLICY</u>: Training and education requirements for all OAH hearing officers (in-house and contract) shall address conduct, civility, and ethics topics as follows:

    <u>In-house hearing officers</u>: In-house hearing officers shall be required to complete training and education as following:

- <u>Initial training/education</u> – Except as otherwise authorized by the Chief Administrative Hearing Officer, in-house hearing officers shall complete the following training/education within one (1) year of their hire date:
  - An in-person course for new administrative judges, not less than 7 days, as may be designated by the Chief Administrative Hearing Officer.
  - A 40-hour mediation training course.
  - A total of 6 hours of arbitration training courses.
  - Self-study of CLE materials regarding the OAH Code of Conduct.
- <u>Ongoing training/education</u> – Except as otherwise authorized by the Chief Administrative Hearing Officer, in-house hearing officers shall attend (either as presenter or attendee) quarterly CLEs presented by OAH. Additionally, in-house hearing officers

shall comply with ongoing training/education requirements for mediators and arbitrators as set forth in Policy 23-5.

- <u>Other</u> – Any other training/education courses identified from time to time by the Chief Administrative Hearing Officer, including, but not limited to, CLEs on salient administrative law issues and/or OAH-initiated After Action Reviews.

<u>Contract hearing officers</u>: Contract hearing officers shall be required to complete training and education as following:

- <u>Initial training/education</u> – Except as otherwise authorized by the Chief Administrative Hearing Officer, contract hearing officers shall complete the following training/education within three (3) months of their first contract date:
    - Self-study of CLE materials regarding the OAH Code of Conduct.
- <u>Ongoing training/education</u> – Contract hearing officers shall attend quarterly CLEs presented by OAH if, at the time of such presentation, the contract hearing officer is handling an active case.
- <u>Other</u> – Any other training/education courses identified from time to time by the Chief Administrative Hearing Officer, including, but not limited to, CLEs on salient administrative law issues and/or OAH-initiated After Action Reviews.

Approved: _____

Chief Administrative Hearing Officer

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:   **23-7**

Date: April 10, 2023

Effective Date: April 10, 2023

Re: Mandatory recusals/disclosures based upon prior agency interactions

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PURPOSE: To establish uniform in-house and contract hearing officer policies for mandatory recusal and to ensure that parties are provided with sufficient relevant and timely information for a Rule 412 disclosure prior to commencing the time period for a for-cause disqualification.

APPLICABILITY: All in-house and contract Hearing Officers. This Policy does not impact any existing proceedings as of the Effective Date of this Policy, and instead only addresses new proceedings assigned to OAH on or after the Effective Date.

AUTHORITY: I.C. §67-5252(5); §67-5282(1)(b), (d), (f), & (h); IRAP 04.11.01.412

POLICY: Hearing Officers who are appointed to serve as a hearing officer in an agency proceeding for an agency that they have previously represented or been adverse to shall disqualify themselves and/or disclose to the parties such prior agency interaction as follows:

- Less than 6 months: mandatory non-appointment/recusal. Hearing Officers, whether in-house or contract, shall not be appointed, or shall otherwise recuse themselves if appointed, to handle a matter with an agency that they represented or were adverse to within the **six (6) months** prior to appointment.

- 6 months to 2 years: mandatory disclosure. Hearing Officers, whether in-house or contract, shall disclose at the initial scheduling conference or the first appearance before the parties, that the Hearing Officer has previously represented or been adverse to the agency before which the proceeding is being held within the **two (2) years** prior to appointment, and state on the

record whether there is a basis, in the Hearing Officer's mind, for a recusal. The fourteen-day period for a party to seek a for-cause disqualification pursuant to Idaho Code Section 67-5252(5) and/or Rule 412 does not begin to run until such disclosure.

- <u>More than 2 years: optional disclosure</u>. Hearing Officers who have not represented or been adverse to the agency before which the proceeding is being held with the two (2) years prior to appointment are not required to disclose such prior agency interaction(s) with the parties to the proceeding. However, Hearing Officers must still comply with all other governing guidelines governing disclosures and recusals, including, but not limited to, OAH's Code of Conduct for Administrative Hearing Officers (to include, e.g., Canon 2.11, "Disqualifications").

Approved:

_____
Chief Administrative Hearing Officer

Policy No.:	**23-8**
Date:	June 20, 2023
Effective Date:	July 1, 2023
Re:	Contract Hearing Officer Compensation, FY24

<u>PURPOSE</u>: To establish the standard hourly rate for contract Hearing Officers for FY24 (July 1, 2023 through June 30, 2024).

<u>APPLICABILITY</u>: This rate applies to all contract Hearing Officers retained by OAH on an hourly rate basis.

<u>AUTHORITY</u>: I.C. §67-5282(1)(i)

<u>POLICY</u>: For FY24 (July 1, 2023 through June 30, 2024), contract Hearing Officers retained by OAH shall be paid at a rate of $185/hr., which has been determined to be a reasonable and consistent rate of compensation for such services.

Approved: _____
Chief Administrative Hearing Officer

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:	**23-9**
Date:	June 20, 2023
Effective Date:	June 20, 2023
Re:	Bar Licensing and Section Memberships, OAH Hearing Officers, FY24

<u>PURPOSE</u>: To establish reimbursement policy for bar licensing and section membership for in-house OAH Hearing Officers for FY24.

<u>APPLICABILITY</u>: All Hearing Officers who are full-time employees of OAH, including the Chief and Deputy Chief.

<u>AUTHORITY</u>: I.C. §67-5282(1)(g) and (h)

<u>POLICY</u>: For the 2024 ISB renewal cycle, OAH will pay for license renewals for all in-house OAH Hearing Officers, including the Chief and Deputy Chief. Additionally, OAH will pay for membership in up to four (4) ISB sections; two (2) sections must be the Dispute Resolution and Government Sections, and the additional two (2) sections must be related to agency work.

Approved: _____
Chief Administrative Hearing Officer

Policy No.:	**23-10**
Date:	June 20, 2023
Effective Date:	July 1, 2023
Re:	Billing Guidelines for Contract Hearing Officers, FY24

<u>PURPOSE</u>: To establish billing guidelines for contract hearing officers for FY24.

<u>APPLICABILITY</u>: All contract hearing officers.

<u>AUTHORITY</u>: I.C. §67-5282(1)(i)

<u>POLICY</u>:   For FY24 (July 1, 2023 through June 30, 2024), contract hearing officers shall be provided, and shall adhere to, the attached billing guidelines, if not previously provided to them. Updated billing guidelines shall be provided to currently-contracted hearing officers upon adoption.

Approved: _____
Chief Administrative Hearing Officer

IDAHO OFFICE OF ADMINISTRATIVE HEARINGS
BILLING GUIDELINES

These billing guidelines govern all bills submitted by contract Hearing Officers to the State of Idaho through the Office of Administrative Hearings. Copies of all such bills should be sent to the Office of Administrative Hearings, Attn: Billing, P.O. Box 83720, Boise ID 83720 or to general@oah.idaho.gov (please include "Billing" and case number in the subject line).

Billing Timelines

1.   Bills are to be submitted monthly, no later than the 15th of each month.

2.   Final bills should be submitted within 30 days after conclusion of the case/matter.

General Principles

1.   Bills must be supported by time sheets and invoices, which must be provided with the bill.

2.   Hours should be recorded contemporaneously, not reconstructed after the fact.

3.   Only the actual hours worked may be billed. Time spent in developing a work product for another client should not be charged. You were chosen for your expertise and it is assumed such efficiencies are routine. Value should not be added to billings for such efficiencies without prior approval.

4.   The only timekeeper approved for billing is the contract Hearing Officer.

Billing Format

1.   Each bill should contain on its face the case/matter caption, the claim/case number (if applicable), the billing period, and the firm or attorney tax identification number. Each case/matter should be billed on a separate page.

2.   Each entry must indicate the date work was performed, the hours billed, a description of the services performed, and the total amount billed for that entry. Entries should be made in chronological order.

3.   Each entry should be recorded to the nearest one-tenth of an hour.

4.   If several separate tasks or activities are performed on a single day, each task or activity should become a separate billing entry or, if listed together, should disclose the time spent for each such task or activity with the requisite description. Disparate activities lumped together in a single large block of time are not payable.

5.   The task description should identify each task separately and in sufficient detail to permit OAH to ascertain the purpose of the task.

6.   If research is performed, the purpose, topic, and related work product should be identified. It is not sufficient, for example, to state, "Legal research." An acceptable entry would state, "Legal research re: docks on navigable waters."

7.   Each billing should state the date the file was opened and the total number of days to date that the file has been open.

8.   The total fees and expenses for the current billing period and the total fees and expenses billed to date on the case/matter should be separately included on the summary page.

Unreimbursable Expenses

The following expenses are considered normal overhead and are not reimbursed unless they are extraordinary in nature and are approved in advance.

1.   Secretarial, clerical or word processing services (regardless of whether the services are normal, temporary or overtime).

2.   Other charges for support staff, e.g., meals, filing, proofreading.

3.   Computer time.

4.   Office supplies.

5.   Local telephone calls or local facsimile transmissions.

6.   Postage.

7.   In-town meals.

8.   Amenities (on road) such as entertainment, dry cleaning, reading materials, and alcoholic beverages.

9.   Time spent preparing billings or reviewing disputed billings.

Reimbursable Expenses

The following expenses are reimbursable. They should be itemized and charged at actual cost without markup. Invoices and/or receipts should be accessible to the client upon request.

1.   Travel time is to be billed at one-half of the attorney's contract billing rate. Travel time may not be billed if it is used for work for another matter or another client of the contract hearing officer.

2.   Other travel costs will be reimbursed consistent with the State Travel Policy. https://www.sco.idaho.gov/LivePages/state-travel-policy-and-procedures.aspx

3.   Air transportation costs and lodging will be reimbursed, but must be approved prior to booking.

4.   Other travel expenses (e.g., car rental, taxis, parking) at cost.

Deviations from Guidelines

If, in your judgment, it is necessary to deviate from the above guidelines, pre-approval must be obtained.

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:   **23-11**

Date: June 20, 2023

Effective Date: June 20, 2023

Re: Contract Hearing Officer Pool Retention and Updating

PURPOSE: To establish a procedure for the ongoing maintenance of the contract hearing officer pool, to include retention of existing contract hearing officers and updating of contract hearing officer information to confirm eligibility.
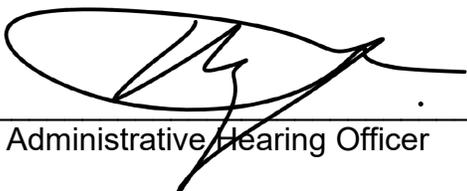
APPLICABILITY: All contract Hearing Officers.

AUTHORITY: I.C. §67-5282(1)(d) & (i)

POLICY: Contract hearing officers in the contract hearing officer pool as of July 1, 2023, will be deemed to be continuing members of the pool, absent a request to be removed from the contract hearing officer pool or upon removal by the Chief Administrative Hearing Officer as he may deem appropriate. OAH will confirm active license status for all members of the contract hearing officer pool during July 2023, to confirm ongoing eligibility to remain in the contract hearing officer pool.

Nothing in this policy limits in any way the Chief Administrative Hearing Officer's statutory authority to retain and/or remove contract hearing officers at any time as he may deem appropriate, nor otherwise alter the terms of any agreement between OAH and a contract hearing officer.

Approved: _____.
                 Chief Administrative Hearing Officer

Policy No.:	**23-12**
Date:	July 12, 2023
Effective Date:	July 12, 2023
Re:	AI Disclosures

PURPOSE: To authorize and standardize AI disclosure statements, in the hearing officer's discretion.

APPLICABILITY: All in-house and contract Hearing Officers.

AUTHORITY: I.C. §67-5282(1)(g) & (h)

POLICY: In accord with IRAP 510 regarding prehearing conferences' objectives to "establish procedure at hearings" and "addressing other matters that may expedite orderly conduct and disposition of the proceeding," hearing officers are permitted to request disclosure statements from parties (whether represented or self-represented) regarding the use of artificial intelligence in the preparation of briefing and other written submissions. <u>The decision whether to request such disclosure statements, and for which submissions, is solely within the discretion of the hearing officer</u>.

The recommended AI disclosure language is as follows:

> I certify that no portion of this filing has been drafted by generative artificial intelligence, or otherwise that any language drafted by generative artificial intelligence contained herein—including quotations, citations, paraphrased assertions, and legal analysis—has been checked for accuracy, using print reporters or traditional legal databases, by a human being before it has been submitted to the Hearing Officer. I understand that by signing this filing, I am responsible for the contents herein, regardless of whether generative artificial intelligence drafted any portion of this filing.

Alternatively, hearing officers, <u>in their sole discretion</u>, may elect to preemptively include a provision regarding the use of artificial intelligence in any order to the parties, substantially providing the same directive regarding the use of artificial intelligence. The recommended language is as follows:

> <u>Use of Generative Artificial Intelligence</u>: No portion of any filing in this matter will be drafted by generative artificial intelligence—including quotations, citations, paraphrased assertions, and legal analysis—unless it has been checked for accuracy, using print reporters or traditional legal databases, by a human being before it is submitted to the Hearing Officer. Any party who signs any filing in this case will be held responsible for the contents thereof, regardless of whether generative artificial intelligence drafted any portion of that filing.

Approved: _____
                                    Chief Administrative Hearing Officer

Policy No.:	**23-13**
Date:	September 27, 2023
Effective Date:	September 27, 2023
Re:	Recording policy

PURPOSE: To improve quality control measures over the recordings at administrative hearings and improve the system for monitoring hearings.

APPLICABILITY: All hearing officers.

AUTHORITY: I.C. §§ 67-5242(3)(d); -5282(h); IDAPA 04.11.01.651

POLICY: All evidentiary hearings are required to be recorded in a manner that recites substantially verbatim a person's oral testimony. To ensure compliance with the statutory requirement that all evidentiary hearings be recorded, the hearing officer shall utilize the services of a court reporter or cause the hearing to be recorded by other means. All hearing officers are to verify that a recording at the evidentiary hearing was accurate and complete within 10 business days of the hearing. If a recording fails such that no recording exists of the evidentiary hearing (either by way of audio recording, video recording, and/or court reporter recording), the hearing officer shall immediately confer with the parties to determine if waiver of the recording requirement is agreed to, or whether to re-open the record and re-conduct the hearing as quickly as possible.

All other hearings should also be recorded, either by audio or remote recording. All hearing officers are to verify that a recording of the hearing was accurate and complete within 3 business days of the hearing. If a recording fails such that no recording exists of the hearing, the hearing officer should create a "Hearing Minutes" order notifying the parties that no recording was made of the hearing, but otherwise setting forth the results of such hearing.

Approved: _____
Chief Administrative Hearing Officer

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:   **24-1**

Date: July 11, 2024

Effective Date: July 15, 2024

Re: Clean desk policy

PURPOSE: To establish a clean desk procedure to protect case materials, case confidentiality, and to increase confidence within the Office of Administrative Hearings

APPLICABILITY: This applies to all employees and legal externs of OAH, including the Chief and Deputy Chief.

AUTHORITY: I.C. §67-5282(1)(d), §67-5282(1)(f), §67-5282(1)(h)

POLICY: OAH is committed to protecting the confidentiality of non-public information in its possession, including confidential Personally Identifiable Information, Protected Health Information, and confidential Personnel Information, consistent with State and Federal laws.

The purpose of this policy is to establish a "clean desk" policy when an individual is away from his/her workstation for an extended period of time, working remotely, or working from a place other than his/her primary workstation to protect confidential information and not expose that information to individuals who should not have access to that information.

All employees and legal externs should observe the "clean desk" rule and ensure that case information is protected by either placing case information in a non-public/visible area (i.e., within a drawer, or appropriately covered while on a desk), closing/locking computer screens when necessary, or, if needed due to a significant volume of documents, locking your office door to prevent access.

This policy will be interpreted at the discretion of the Chief Administrative Hearing Officer, and may be modified as needed to protect confidential information.

Approved: _____
Chief Administrative Hearing Officer

Policy No.:	**24-2**
Date:	July 18, 2024
Effective Date:	July 18, 2024
Re:	Contract Hearing Officer Compensation, FY25

<u>PURPOSE</u>: To establish the standard hourly rate for contract Hearing Officers for FY25 (July 1, 2024 through June 30, 2025).

<u>APPLICABILITY</u>: This rate applies to all contract Hearing Officers retained by OAH on an hourly rate basis.

<u>AUTHORITY</u>: I.C. §67-5282(1)(i)

<u>POLICY</u>: For FY25 (July 1, 2024 through June 30, 2025), contract Hearing Officers retained by OAH shall be paid at a rate of $185/hr. for time billed during FY25, which has been determined to be a reasonable and consistent rate of compensation for such services.

Approved: _____
Chief Administrative Hearing Officer

Policy No.:   **24-3**

Date: July 18, 2024

Effective Date: July 18, 2024

Re: Billing Guidelines for Contract Hearing Officers, FY25

PURPOSE: To establish billing guidelines for contract Hearing Officers for FY25 (July 1, 2024 through June 30, 2025).

APPLICABILITY: All contract hearing officers.

AUTHORITY: I.C. §67-5282(1)(i)

POLICY: For FY25 (July 1, 2024 through June 30, 2025), contract Hearing Officers shall be provided, and shall adhere to, the attached billing guidelines, if not previously provided to them, which billing guidelines shall govern the submission of all time billed during FY25. Any updated billing guidelines created during FY25 shall be provided to currently-contracted hearing officers upon adoption.

Approved: _____

                 Chief Administrative Hearing Officer

IDAHO OFFICE OF ADMINISTRATIVE HEARINGS
BILLING GUIDELINES

These billing guidelines govern all bills submitted by contract Hearing Officers to the State of Idaho through the Office of Administrative Hearings. Copies of all such bills should be sent to the Office of Administrative Hearings, Attn: Billing, P.O. Box 83720, Boise ID 83720 or to general@oah.idaho.gov (please include "Billing" and case number in the subject line).

Billing Timelines

1. Bills are to be submitted monthly, no later than the 15th of each month.

2. Final bills should be submitted within 30 days after conclusion of the case/matter.

General Principles

1. Bills must be supported by time sheets and invoices, which must be provided with the bill.

2. Hours should be recorded contemporaneously, not reconstructed after the fact.

3. Only the actual hours worked may be billed. Time spent in developing a work product for another client should not be charged. You were chosen for your expertise and it is assumed such efficiencies are routine. Value should not be added to billings for such efficiencies without prior approval.

4. The only timekeeper approved for billing is the contract Hearing Officer.

Billing Format

1. Each bill should contain on its face the case/matter caption, the claim/case number (if applicable), the billing period, and the firm or attorney tax identification number. Each case/matter should be billed on a separate page.

2. Each entry must indicate the date work was performed, the hours billed, a description of the services performed, and the total amount billed for that entry. Entries should be made in chronological order.

3. Each entry should be recorded to the nearest one-tenth of an hour.

4. If several separate tasks or activities are performed on a single day, each task or activity should become a separate billing entry or, if listed together, should disclose the time spent for each such task or activity with the requisite description. Disparate activities lumped together in a single large block of time are not payable.

5.   The task description should identify each task separately and in sufficient detail to permit OAH to ascertain the purpose of the task.

6.   If research is performed, the purpose, topic, and related work product should be identified. It is not sufficient, for example, to state, "Legal research." An acceptable entry would state, "Legal research re: docks on navigable waters."

7.   Each billing should state the date the file was opened and the total number of days to date that the file has been open.

8.   The total fees and expenses for the current billing period and the total fees and expenses billed to date on the case/matter should be separately included on the summary page.

Unreimbursable Expenses

The following expenses are considered normal overhead and are not reimbursed unless they are extraordinary in nature and are approved in advance.

1.   Secretarial, clerical or word processing services (regardless of whether the services are normal, temporary or overtime).

2.   Other charges for support staff, e.g., meals, filing, proofreading.

3.   Computer time.

4.   Office supplies.

5.   Local telephone calls or local facsimile transmissions.

6.   Postage.

7.   In-town meals.

8.   Amenities (on road) such as entertainment, dry cleaning, reading materials, and alcoholic beverages.

9.   Time spent preparing billings or reviewing disputed billings.

Reimbursable Expenses

The following expenses are reimbursable. They should be itemized and charged at actual cost without markup. Invoices and/or receipts should be accessible to the client upon request.

1.   Travel time is to be billed at one-half of the attorney's contract billing rate. Travel time may not be billed if it is used for work for another matter or another client of the contract hearing officer.

2.   Other travel costs will be reimbursed consistent with the State Travel Policy. https://www.sco.idaho.gov/LivePages/state-travel-policy-and-procedures.aspx

3.   Air transportation costs and lodging will be reimbursed, but must be approved prior to booking.

4.   Other travel expenses (e.g., car rental, taxis, parking) at cost.

Deviations from Guidelines

If, in your judgment, it is necessary to deviate from the above guidelines, pre-approval must be obtained.

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.: **24-4**

Date: July 18, 2024

Effective Date: July 18, 2024

Re: Bar Licensing and Section Memberships, FY25

PURPOSE: To establish policy for bar licensing and section membership for in-house OAH administrative law judges ("ALJ") for FY25 (July 1, 2024 through June 30, 2025).

APPLICABILITY: All administrative law judges who are full-time employees of OAH, including the Chief and Deputy Chief.

AUTHORITY: I.C. §67-5282(1)(g) & (h)

POLICY: For the 2025 ISB renewal cycle, OAH will pay for ISB license renewals for all in-house OAH ALJs, including the Chief and Deputy Chief. Additionally, OAH will pay for membership in up to four (4) ISB sections: the Dispute Resolution and Government Sections, membership in which is required for OAH ALJs; and up to two (2) additional section memberships of the individual ALJ's choosing, provided that the section's subject area is related to OAH's scope of work.

Approved: _____
Chief Administrative Hearing Officer

STATE OF IDAHO

OFFICE OF ADMINISTRATIVE HEARINGS

Policy No.:	**24-5**
Date:	September 20, 2024
Effective Date:	July 1, 2024
Re:	Mandatory recusals/disclosures based on prior agency interactions.

PURPOSE: To establish uniform in-house and contract hearing officer policies for mandatory recusal and to ensure that parties are provided with sufficient relevant and timely information for a Rule 251 for-cause Petition for Disqualification.

APPLICABILITY: All in-house administrative law judges ("ALJs") and contract Hearing Officers.

SUPERSEDES: Policy 23-7, issued April 10, 2023.

AUTHORITY: I.C. §67-5252(f); §67-5282(1)(b), (d), (f), & (h); IRAP 62.01.01.251

POLICY: ALJs and contract Hearing Officers who are appointed to serve as a hearing officer in an agency proceeding for an agency that they have previously represented or been adverse to shall disqualify themselves and/or disclose to the parties such prior agency interaction as follows:

- Less than 6 months: mandatory non-appointment/recusal. ALJs and contract Hearing Officers shall not be appointed, or shall otherwise recuse themselves if appointed, to handle a matter with an agency that they represented or were adverse to within the **six (6) months** prior to appointment.

- 6 months to 2 years: mandatory disclosure. ALJs and contract Hearing Officers shall disclose at the initial scheduling conference or the first appearance before the parties, that they have previously represented or been adverse to the agency before which the proceeding is being held with the **two (2) years** prior to appointment, and state on the record whether

there is a basis, in the Hearing Officer's mind, for a recusal. A failure by an ALJ or contract Hearing Officer to disclose may be cured by issuing a Notice to the parties following the first appearance before the parties. Parties will have fourteen (14) days from such disclosure or notice to file a for-cause Petition to Disqualify pursuant to Idaho Code section 67-5252(5) and Rule 251.

- More than 2 years: optional disclosure. ALJs and contract Hearing Officers who have not represented or been adverse to the agency before which the proceeding is being held within the two (2) years prior to appointment are not required to disclose such prior agency interaction(s) with the parties to the proceeding. However, ALJs and contract Hearing Officers must still comply with all other governing guidelines governing disclosures and recusals, including, but not limited to, OAH's Code of Conduct for Administrative Hearing Officers (to include, e.g., Canon 2.11, "Disqualifications").

Approved: _____
                        Chief Administrative Hearing Officer

Policy No.:	**25-1**
Date:	September 24, 2025
Effective Date:	September 24, 2025
Re:	Guidelines for Administrative Law Judges Regarding the Use of Artificial Intelligence.

PURPOSE: To replace existing guidelines regarding AI usage.

APPLICABILITY: All in-house administrative law judges ("ALJs") and independent contract Hearing Officers.

SUPERSEDES: Policy 23-1, issued January 12, 2023 and Policy 23-12, issued July 12, 2023.

AUTHORITY: I.C. §67-5282(1)(d), (f), & (g)

POLICY: ALJs and independent contract Hearing Officers shall abide by the Guidelines for Administrative Law Judges Regarding the Use of Artificial Intelligence attached hereto. These Guidelines replace existing Policy 23-1 ("Use of artificial intelligence") and Policy 23-12 ("AI Disclosures"). These Guidelines may be updated from time to time, and ALJs and independent contract Hearing Officers shall abide by the most current version of the Guidelines.

Approved: _____
Chief Administrative Law Judge

Guidelines for Administrative Law Judges Regarding the Use of Artificial Intelligence

September 24, 2025

Introduction

These Guidelines are intended to provide general, non-technical advice about the use of artificial intelligence (AI) and generative artificial intelligence (GenAI) by Administrative Law Judges (ALJs) at the State of Idaho Office of Administrative Hearings (OAH). These guidelines also apply to OAH's independent contract hearing officers (ICHOs), as well as anyone in roles supporting OAH's ALJs and ICHOs, including deputy clerks and legal assistants.

These Guidelines identify key risks and issues associated with using AI/GenAI, as well as prohibitions and risk-avoidance for certain use-case scenarios. Any use of AI/GenAI by ALJs, ICHOs, and support staff must be consistent with OAH's overarching obligation to serve the citizens, businesses, and state agencies of Idaho by providing independent, efficient, and unbiased hearings of contested administrative cases.

These Guidelines are not intended to be exhaustive and any use of AI/GenAI must comply with the Idaho Code of Conduct for Administrative Law Judges and the canons contained therein.

These Guidelines are not intended to be final; the speed with which new AI/GenAI tools are developing militates in favor of ongoing updates and revisions to these Guidelines. ALJs should always utilize the most current Guidelines, and during interim periods between updates/revisions, should confer with the Chief ALJ regarding any new issues or concerns not addressed by the extant Guidelines.

These Guidelines are published online to promote transparency, open justice, and public confidence and to affirm that all ALJs and ICHOs are to promote decisional independence and unbiased decision-making.

Terminology and Background

This guidance finds that defining key terminology is important, and therefore, this guidance will adopt the "Glossary of Artificial Intelligence Terms for NJ Judges", [i] which is attached hereto. These terms will be used in this guidance and future revisions.

ALJs should also be familiar with existing AI/GenAI technologies, not only to understand their uses and limitations, but to ensure that ALJs have the ability to identify and address the use and misuse of AI/GenAI in contested administrative proceedings. This includes understanding the governing ethical considerations for lawyers regarding the use of AI/GenAI (as outlined in ABA Opinion No. 512[ii]), as well as limitations inherent to AI/GenAI,[iii] such as the potential for bias.[iv]

Guidelines

1.   ALJs are not permitted to use AI/GenAI to write orders or decisions.

As an initial matter, per the State of Idaho Office of Information Technology Services (ITS) guidelines,[v] the use of AI/GenAI in rendering decisions without human supervision is a prohibited use-case:

> 4. Prohibited Use Cases: AI/GenAI tools must not be used for:
>
>> i. Fully autonomous decision-making affecting individual rights, benefits, or services.
>
> …

(highlights added).

In the context of orders and decisions issued by ALJs at OAH, AI/GenAI must <u>not</u> be used <u>at any stage of drafting</u> orders and/or decisions, including the drafting of outlines or similar pre-final documents. AI/GenAI tools are fundamentally limited in the following ways:

- Information generated by AI/GenAI systems, irrespective of the model used, can be inaccurate, incomplete, misleading, or out-of-date, especially with respect to legal information.
- Information generated by AI/GenAI systems may represent that the information generated is accurate both as to local law and current decisional authority.
- Information generated by AI/GenAI systems may include "hallucinated" case citations, case quotes, case summaries, statutory citations and language, and regulatory citations and language, which do not exist or which are inaccurately/incompletely represented.
- Information generated by AI/GenAI systems may make factual errors.

Even in cases where initial drafting/output is done with AI/GenAI and subject to human oversight, errors can occur. As orders and decisions made by ALJs fundamentally address individual property rights, benefits, and/or services, any error evading human review may significantly impact the determination of a proceeding before an ALJ.

Additionally, the use of AI/GenAI in drafting may also potentially impact public records exemptions related to ALJ decision-making under Idaho Code §74-102(1)(c), as inputs may be publicly available.[vi]

Governing Canon(s): 1.2 (Promoting Confidence in the Administrative Law Process), 2.2 (Impartiality and Fairness), 2.5 (Competence, Diligence, and Cooperation)

2.   ALJs are not permitted to use AI/GenAI for legal research in case proceedings.

Whether public-use AI/GenAI or industry-specific companies providing legal research

services (which ALJs may use in researching caselaw, statutes, regulations, and other materials), the use of AI/GenAI in conducting legal research is not permitted, for the same reason as AI/GenAI is not to be used in the preparation of orders and decisions.

The potential for errors,[vii] whether in the form of hallucinated case citations, mis-quotes, or inaccurate/incomplete summaries, creates the same unacceptable risk for adversely impacting the determination of individual rights, benefits, or services. As a standard maxim of the legal profession, ALJs should never cite a case/statute/regulation/secondary source unless they have fully read it and accurately confirmed its currency.

Additionally, the use of AI/GenAI for legal authority summation may not provide an accurate, up-to-date summary of such authority, either by way of overlooking factual or legal nuance, or via ignoring other authority which may limit or otherwise impact the summarized legal authority. This includes the potential for AI/GenAI not recognizing nuances between different jurisdictions, and may fail to include relevant authority in its summation.

Governing Canon(s): 1.2, 2.2, 2.5

3.   <u>**ALJs are not permitted to use AI/GenAI for analysis of evidence or party submissions in case proceedings.**</u>

A number of AI/GenAI products offer the ability to provide summaries of documents. ALJs shall not use these to generate summaries of any party submissions in contested cases, both as a function of ensuring case determination accuracy as well as protecting private information.

First, as with drafting and research, the use of AI/GenAI summation runs the risk of inaccurate or incomplete results, and may mischaracterize or otherwise disregard the context/relevancy of certain of parties' submissions (including evidence). This also potentially interferes with the ALJs charge to weigh the weight and credibility of evidence. Because of this risk, and because of an ALJs' obligation to act competently and independently, each and every party submission must be reviewed by the ALJ independent of any computerized summary of those submissions.

Second, the use of such AI/GenAI products risks significant privacy concerns. Once uploaded to a AI/GenAI system, the data – including PII ("Personally Identifiable Information") – may, with some likelihood, be retained by the system for additional training of that system.[viii] Importantly, this prohibition on use aligns with the State of Idaho's "Prohibited Use Case" 4.v, which prohibits the use of AI/GenAI for "[u]nauthorized disclosure of sensitive information, including personally identifiable information, protected health information, financial account information, law enforcement or security information, or information exempt from public disclosure."

Governing Canon(s): 1.2, 2.2, 2.5

4.   **ALJs may use AI-generated voice-to-text transcripts.**

As permitted by existing IDAPA rule (IDAPA 62.01.01.601.04[ix]), "In preparing any order, a presiding officer may rely upon any unofficial transcript of a hearing, including, but not limited to, any transcript automatically generated by computer software," to also include real-time/closed caption transcriptions created during a proceeding or hearing. For audio recordings generated by a system lacking automatic transcription services, transcription may be made by State of Idaho-licensed software with a privacy feature ensuring that neither the audio nor transcript will be retained by the system. ALJs are not permitted to use unlicensed and/or public AI/GenAI systems to generate transcripts.

In utilizing an unofficial, computer-generated transcript, two additional points regarding usage are made:

- Such transcript is not an official transcript; therefor, ALJs are not to cite to the informal transcript, but instead must cite to the hour/minute marker within the video or audio recording itself. All citations must be verified for accuracy by the ALJ by viewing/listing to the recording.
- Computer-generated transcript programs, as well as traditional court reporting services, may offer AI-generated hearing summaries. As with other summaries (as discussed above), ALJs are not to use such summaries due to the risk of error and/or incompleteness.

Governing Canon(s): 1.2, 2.2, 2.5

5.   **ALJs may control the use of AI/GenAI by parties in submissions and presentations in contested case proceedings.**

These guidelines are not intended to stifle innovation or impair access by self-represented litigants in administrative proceedings. ALJs should recognize that the use of AI/GenAI by attorneys and self-represented litigants is increasing and may be utilized by those parties for any number of reasons, including to understand the proceedings and governing law, and/or to assist in the presentation of their case to the ALJ.

However, ALJs retain the ability to control the use of AI/GenAI in contested case proceedings when submissions made by a party are generated, in whole or in part, by AI/GenAI. This is critical to ensure that all case presentations are factually and legally accurate, and to avoid the expenditure of time and other resources in unnecessary disputes regarding AI/GenAI use and misuse.

Accordingly, ALJs are permitted to request disclosure statements from parties (whether represented or self-represented) regarding the use of AI/GenAI in the preparation of briefing and other written submissions, including evidence. The decision whether to request such disclosure statements, and for which submissions, is solely within the discretion of the ALJ, and be made at any time during the course of a contested case, including at the outset before any party submissions.

The recommended disclosure language to require of parties is as follows:

I certify that no portion of this filing has been drafted by generative artificial intelligence, or otherwise that any language drafted by generative artificial intelligence contained herein—including quotations, citations, paraphrased assertions, and legal analysis—has been checked for accuracy, using print reporters or traditional legal databases, by a human being before it has been submitted to the Hearing Officer. I understand that by signing this filing, I am responsible for the contents herein, regardless of whether generative artificial intelligence drafted any portion of this filing.

Alternatively, the recommended language to include in relevant orders in advance of party submissions – in lieu of or in conjunction with any party disclosure language - is as follows:

Use of Generative Artificial Intelligence: No portion of any filing in this matter will be drafted by generative artificial intelligence—including quotations, citations, paraphrased assertions, and legal analysis—unless it has been checked for accuracy, using print reporters or traditional legal databases, by a human being before it is submitted to the Hearing Officer. Any party who signs any filing in this case will be held responsible for the contents thereof, regardless of whether generative artificial intelligence drafted any portion of that filing.

In conjunction with this, ALJs must be cautious in their determination of AI/GenAI usage. As a function of competency, ALJs are expected to stay informed of potential use-cases for AI/GenAI in legal proceedings (e.g., the use of avatars as presenting representatives and/or witnesses) to assist in their identification of, and evaluation of, such usage.

Additionally, for the same reasons outlined above in Guideline 3, ALJs are not to use AI/GenAI or other artificial intelligence system to identify the use of AI/GenAI in a party's submissions. As with direct usage, such usage implicates the risk of errors, as well as the disclosure of private information.

Governing Canon(s): 1.2, 2.2, 2.5

6. **Other AI/GenAI usage related to contested case proceedings.**

ALJs, and OAH as an agency, will not utilize AI/GenAI in agency functions that implicate individual administrative case proceedings. Potential prohibited usage may include, but is not limited to:

- Chatbots and/or AI-automated phone operators;
- Scheduling and calendaring of contested cases;
- Translation of testimony, party submissions, and evidence.

Governing Canon(s): 1.2, 2.2, 2.5

7. **Other AI/GenAI usage not related to specific contested case proceedings.**

Regarding the use of AI/GenAI usage outside of the context of a particular contested case proceeding, an ALJ is permitted to engage in such use provided that such usage does not 1) violate any provision of the Idaho Code of Conduct for Administrative Law Judges, and/or 2) violate any provision of the State of Idaho ITS "Artificial Intelligence (AI) – Governance Policy, Standard, and Guideline" and/or such other policies/procedures/regulations that ITS may provide regarding the use of AI/GenAI. Potential permitted usage may include, but is not limited to:

- Testing and evaluation of existing AI/GenAI applications and systems to assess such systems for their use in administrative proceedings or in general legal practice;
- Assistance in preparation for presentations (e.g., CLEs or other trainings);
- Agency website creation and/or maintenance;
- The preparation of standard forms and/or informational materials intended for usage by the general public, provided that all such output is reviewed and approved by an OAH employee with authority to conduct such review and approval;
- Analysis of case data for workflow, caseload, and other data assessment purposes, provided that such data is anonymized such that no PII data (including name) regarding individual cases is included in the dataset to be analyzed;
- Preparation of non-case correspondence (e.g., recommendation letters).

Questions regarding any non-case use, as well as any other use-case scenario within OAH not otherwise addressed by these Guidelines, should be addressed to the Chief Administrative Law Judge for review and approval.

Governing Canon(s): 1.2, 2.5

i "Glossary of AI Terms for NJ Judges," *available at* https://www.njcourts.gov/sites/default/files/attorneys/attorney-resources/aiglossary.pdf.

ii ABA Formal Opinion 512 (July 29, 2024), "Generative Artificial Intelligence Tools", *available at* https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf.

iii "An Introduction to Artificial Intelligence for Federal Judges," Federal Judicial Center (2023), *available at* https://www.fjc.gov/sites/default/files/materials/47/An_Introduction_to_Artificial_Intelligence_for_Federal_Judges.pdf.

iv "Artificial Intelligence and the Courts: Materials for Judges – Artificial Intelligence and Bias – An Evaluation," American Association for the Advancement of Science (September 2022), *available at* https://www.aaas.org/sites/default/files/2022-09/Paper%204_AI%20and%20Bias_NIST_FINAL.pdf.

v "Artificial Intelligence (AI) – Governance Policy, Standard, and Guideline", State of Idaho Office of Information Technology Services (August 2025), *available at* https://its.idaho.gov/wp-content/uploads/2024/09/AI-PSG_FINAL-Aug2025.pdf

vi *See, e.g.,* "Hundreds of thousands of Grok chats exposed in Google results", BBC, *available at* https://www.bbc.com/news/articles/cdrkmk00jy0o (also discussing recent privacy issues re: ChatGPT & Meta)

vii "Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools," Varun Magesh, Faiz Surani, Matthew Dahl, Mirac Suzgun, Christopher D. Manning, Daniel E. Ho, JOURNAL OF EMPIRICAL LEGAL STUDIES, Volume 22, Issue 2, June 2025, Pages 216-242 https://dho.stanford.edu/wp-content/uploads/Legal_RAG_Hallucinations.pdf

viii *See, e.g.,* "A major AI training data set contains millions of examples of personal data," Elaine Guo, MIT Technology Review, July 18, 2025 *available at* https://www.technologyreview.com/2025/07/18/1120466/a-major-ai-training-data-set-contains-millions-of-examples-of-personal-data/ *and* "Generative AI – Privacy & Intellectual Property", Naval Postgraduate School, *available at* https://libguides.nps.edu/gen-ai/privacy-intellectual.

ix https://adminrules.idaho.gov/rules/current/62/620101.pdf

Glossary of Artificial Intelligence Terms for NJ Judges

AI Agent

AI Model (or set of AI models) in production that operates to generate "independent" recommendations or decisions.

AI Lifecycle

The full process and steps by which an AI model or system is commissioned, designed, developed, trained, implemented, monitored, and decommissioned.

AI Model

An AI model is the product of applying an algorithm (or set of algorithms) to data in order to optimize on a particular goal and/or produce insights about a particular question or objective.

AI System

The ecosystem that includes AI models (themselves composed of algorithms and data), along with the humans, their organizations and any other technologies associated with their AI Lifecycle.

Algorithm

A step-by-step procedure for solving a problem or accomplishing some end. A familiar example is a recipe, which details the steps needed to prepare a dish. In a computer, an algorithm is implemented in computer code and details the discrete steps and calculations a computer needs to implement to complete a task. An algorithm is the "engine" an AI uses to "think" and make predictions.

Algorithmic Bias

The tendency of an AI model to produce outputs that perform differentially because of how an algorithm is built or functions with the data on which it is trained or operated.

Algorithmic Decision Making/ Automated Decision Making

No widely agreed upon definition. Generally, refers to an AI model permitted or instructed to determine outcomes, but can also less specifically refer to an AI system or model that facilitates, recommends, or influences human decisions or outcomes. The distinction between recommending and decision-making is almost always context dependent.

Artificial General Intelligence

AI capable of autonomous existence across a full range of capabilities, with

the ability to establish its own objectives, adjust to circumstances, learn and follow through on complex instructions.

Artificial Intelligence

No widely agreed upon definition. AI involves machines designed to perform tasks that typically require human intelligence, including learning, reasoning, problem-solving, perception, and language understanding.

Artificial Narrow Intelligence

Narrow AI refers to models aimed at performing discrete tasks and functions.

Artificial Neural Network (ANN)

The model (or "tool") used in deep-learning AI best defined as a computer system that works to achieve intelligence through a network structure that works to simulate the human brain. An ANN analyzes data by passing it through multiple layers of artificial neurons which sift through and decipher the data. This layered network structure allows the system to analyze discrete data elements, draw connections between discovered data patterns, and ultimately derive meaning and form predictions. Neural networks can be wide, meaning each layer has large numbers of neurons, or deep, meaning data must pass through many layers of neurons before a final conclusion is drawn. Engineers determine the width and depth of the network based on their interpretation of the tools and structures a specific AI application needs for success.

Artificial Super Intelligence

AI models that are fully autonomous and self-executing in ways that surpass human intelligence and behavioral ability.

Augmented Reality

The overlaying and/or integration of computer generated visual, auditory, haptic, or somatosensory information and phenomena onto real world objects and interactions.

Augmented Human/ Machine Performance

AI models that assist or supplement humans or existing technologies in executing a task, potentially by reducing the time and energy necessary to complete it.

Authenticity

That which is genuinely who or what it is represented to be.

Autonomous Systems

AI-controlled machines and vehicles such as driverless cars and aerial drones that can operate and make decisions with little or no human control. Such systems already exist; however, in most cases stringent safety demands have forestalled widespread use. Lethal autonomous weapons systems (LAWS or simply AWS), or autonomous systems that can use deadly force, have received outsize legal, ethical, and political attention given widespread concerns about giving inhuman systems the power to take a human life.

Bias

Preference or tendency for one thing over another, whether for reasons of rational choice or intentional or unintentional discrimination.

Big Data

The enormous, and exponentially growing, amount of complex data (structured, unstructured, and semi-structured) that is driving AI models today.

Biometrics

Data points captured and measured from human bodily functions and characteristics, including heart rate, retinal patterns, facial geometry, gait, speech etc.

Black Box

A term used to describe the often-mysterious nature of AI decision-making and the problem of AI explainability. Machine learning models, particularly deep learning, can develop complex patterns that are hard for humans to interpret directly, even though the initial algorithms and structures are designed by humans. The challenge lies in interpreting how these algorithms process and learn from data. Considerable research is underway by organizations such as NIST to enable more transparent neural networks, which may allow judges and lawyers to more fully understand the parameters and weights applied within.

Bot

An AI agent that mimics human behavior, capacity or processes.

Chatbot

An AI agent that simulates human customer service or conversational

interactions by automating verbal and written responses to communicate with humans.

Cleaned   Data that has been labeled, relabeled or reviewed to ensure that data points are properly organized, appropriate, or equivalent. Sometimes outlying or irrelevant data may be removed.

Confidence Score   Any expression of certainty in the predictive accuracy of certain AI or ML applications. AI applications are imperfect and offer approximate results, decisions, or predictions that can be provided with a level of confidence. Few, if any, results an AI produce should be treated as a certainty. For example, the FBI facial identification software mentioned in the introduction is not designed or intended to match a single identity with a face. Rather it offers the user a range of potential matches based on potential pattern similarities or matches. The algorithm is reported to be accurate 86% of the time when the algorithm output offers the user at least fifty potential match pictures. Put another way, the AI has 86% confidence that the match will be one of the fifty given matches. Confidence scores are estimates, not guarantees of accuracy.

Connected Devices/ Internet of Things/ Sensors   Networks of devices, such as wearables (e.g., smart watches), thermostats and sensors on a refrigerator, industrial production line, or in a car that feed data to AI models in order to improve performance or generate predictions about the devices or the users of the devices.

Continuous Active Learning   A subset of machine learning in which models continuously learn and adapt based upon increasing amounts of iterative feedback.

Continuous Model Monitoring   Consistent vigilance over and review of a model's activity to track changes in the model and fitness for purpose.

Convolutional Neural Network   A machine learning technique often used for classifying or generating images and videos in unstructured or unlabeled data.

Data Bias

Datasets are compiled of data that is collected from information about historical events and as such are artifacts of human history. Data bias refers to datasets that can encode biases if used to train models that then predict future eligibility based upon those historical patterns.

Dataset

Collections of data used to train AI models.

Data Protection

Efforts and obligations to secure, obtain and use data according to prescribed standards.

Decommissioning

The act of removing an AI model from deployment once its function is complete or performance is degraded, or to correct errors or mitigate risk.

Deep Learning

Deep learning, a branch of machine learning, leverages multi-layered neural networks, termed deep neural networks (DNNs). Trained on extensive data sets, DNNs excel in identifying and classifying phenomena, discerning patterns and relationships, evaluating possibilities, and formulating predictions and decisions.

Design Objectives

Parameters and instructions that are outlined or defined in accordance with the purpose or goals for an AI system.

Dirty Data

Describes data that can be inaccurate, incomplete, or contain errors or volumes of extraneous material.

Drift

In AI, drift typically refers to the phenomenon of model performance degrading over time due to changes in the underlying data (concept drift) or changes in the external environment (data drift), rather than the model independently choosing new tasks.

Error Type One:

Indicates the presence of a fact or condition when that fact or condition is actually not present. Type Two: Indicates the absence of a fact or condition when that fact or condition is actually present.

Explainability

The feature of existing machine learning techniques that describes the degree to which the resulting model is able (or more likely unable) to provide an understandable explanation for how it reached its outputs. Generally, the more complex the models get, the harder it is for them to identify how and why they produce their particular outputs. In practice, this concept includes technology techniques that help approximate how a model produces an output as well as analog descriptions of processes for how decisions are made or influenced by AI model outputs.

Explainable AI

A distinct field of technical work dedicated to revealing model explainability and how certain AI models work and produce predictions.

Extended Reality

Extended reality (XR) specifically refers to all real-and-virtual combined environments and human-machine interactions generated by computer technology and wearables. It encompasses virtual reality (VR), augmented reality (AR), and mixed reality (MR), and does not necessarily need to be generated or enhanced by AI..

Extrapolation

Using known values or AI model outputs to estimate the value of unknown variables.

F1

The Harmonic Mean of Recall and Precision, often used in Information Retrieval studies to measure the effectiveness of a search or review effort, which accounts for the tradeoff between Recall and Precision.

Facial Recognition

A prominent class of AI applications that can detect a face and analyze its features (or "biometrics") and even predict the identity of that face. These AI applications are notable for their common use in criminal justice and national security as a means of identifying suspects or threats. Facial recognition algorithms can also be used to surveil more generally. Facial recognition may also be used as a biological "password" to authenticate an individual's identity (for example, to unlock a smartphone).

False Negative

Indicates the absence of a fact or condition when that fact or condition is actually present (a "type two error").

False Positive

Indicates the presence of a fact or condition when that fact or condition is actually not present (a "type one error").

Features

Measures or variables, often qualitative, that affect or distinguish categories of data points (e.g., height, weight, level of education) in structured data.

Gait Analysis

A form of biometric data analysis that evaluates the ambulatory motions of a person or mobile being.

Gaze Analysis

A form of biometric data analysis that evaluates retinal and eye movement to analyze patterns in motion.

Generative Adversarial Networks

GANs are a type of AI algorithm designed to generate data similar to the input data they have been trained on, and they can produce highly realistic and high-quality outputs. The main innovation of GANs is their ability to generate new data instances that resemble the training data.

Generative AI

Type of AI that uses a model's own underlying logic and training to generate new artificial outputs or datasets.

Hacking

The act of gaining access to a system without authorization, often with the intention to manipulate or destroy it. Hacking can also be used as a means of testing a system's security and functionality.

Healthy Data

Datasets that contain accurate and complete data.

Human Bias

Whether implicit or explicit, existing human biases can make their way into AI systems through the sorts of use cases selected, how questions for AI models are framed, which data are selected, how model instructions are converted to

code, and even how model outputs are interpreted or communicated to affected communities.

Human in-the-Loop

An autonomous AI system designed to work cooperatively with a human to complete its tasks. Often these AI defer to human judgment when making certain decisions, especially those with significant consequences or moral weight. Human in-the-loop systems generally seek a "best of both worlds" approach that maximizes the benefits of both human and AI decision making.

Human on-the-Loop

An autonomous AI system designed to work under human oversight, allowing the human to easily intervene if the AI's decisions are in error, pose significant danger, or are ethically compromising.

Human out-of-the-Loop

An autonomous AI system designed to operate without human oversight or involvement. Such systems do not facilitate easy human intervention if unethical or dangerous decisions are made.

Interpolation

Making discrete inferences within a constrained set of known data points.

Interpretability

Describes a model output or explanation that is understandable and intelligible to humans.

Image Recognition and Analysis

The use of AI models (usually computer vision) to detect, recognize and understand (living or material) objects in pictures or video.

Insights

AI system outputs containing actionable knowledge or information that can support a variety of human or technical functions, including decision making.

Labeled

Used to describe data that is tagged or annotated (usually by humans but sometimes by AI itself) with meaning and categories that reflect its understood contents, characteristics and features.

Machine Learning (ML)

A method of creating AI that relies on data, algorithms, and learned experience to refine algorithms and form intelligence. The premise of machine learning is that "intelligence" is not innate but must be learned through experience. Machine learning AI algorithms are "trained" by engineers who feed it mass amounts of data which it slowly learns to interpret and understand. In response to the data, the AI gradually tweaks its code to steadily improve its abilities. These tweaks add up over time, helping the AI create stronger predictions.

Merged

Used to describe individual datasets that have been combined to form larger, more representative or more complete data sets. Merging data sets requires systematic matching and cleaning and this process of "munging" by data scientists can be time-consuming and require great care.

Metaverse

No widely agreed upon definition, but generally refers to a collective virtual shared space, created by the convergence of virtually enhanced physical reality, virtual reality (VR), augmented reality (AR), and internet services. It suggests a future iteration of the internet, supporting persistent online 3D virtual environments through conventional personal computing, as well as VR and AR headsets..

Mixed Reality

A hybrid digital and physical setting that combines computer generated visual, auditory, haptic, or somatosensory information and phenomena with real-world objects and interactions.

Model Alignment

This term more broadly refers to ensuring that an AI model's predictions or decisions align with human values, ethical principles, or specific operational goals. It's not just about optimizing for an objective but ensuring that the model's operation adheres to broader ethical or societal standards.

Model Training

An essential stage in AI model development that involves continuously feeding training data to the model and reviewing and/or adjusting certain model features or variables. Most models need many rounds of training and tuning.

Narrow AI

The ability of computational machines to perform singular tasks at optimal levels, or near optimal levels, and usually better than, although sometimes just in different ways, than humans. Under this umbrella falls many single or limited purpose AI technologies such as facial recognition algorithms, driverless cars, and drones, among others. These technologies are intelligent in one or a few domains, limiting their ability to handle complexity or tasks outside of their intended purpose. All AI currently in use falls in this category.

Natural Language Processing

A machine learning technique that analyzes large quantities of human text or voice data (transcribed or acoustic) for specified features, including, but not limited to, meaning, content, intention, attitude and context.

Neural Network

A set of algorithms modelled (roughly) to mimic the human brain that identify the relationships between data points in a network-map like fashion. Neural networks contain a multitude of interconnected artificial neurons, or nodes, that are assigned weights and biases and are organized into at least three layers (input, hidden, and output).

Open Data

Publicly available data that can be accessed or used with or without a license.

Output

The result or value produced by an AI model. Outputs are generated from combining input data with the model, and fundamentally are predictions.

Overfitting

Overfitting occurs when a model learns the detail and noise in the training data to the extent that it performs poorly on new data. It's not just about correlating data too narrowly but about a model capturing noise or random fluctuations in the training data as if they were significant features, which impacts its ability to generalize to new data.

Oversight and Accountability

Generally refers to how AI systems are governed and by whom, and how risk and responsibility are allocated across these processes.

Parameter

In machine learning, parameters are the parts of the model that are learned from the training data, such as the weights in a neural network. They are not variables or aspects of the data the model was trained on (those would be features or inputs), but rather the internal configurations that the algorithm adjusts to make accurate predictions. Parameters are what the model learns through training, distinct from the features (data inputs) it uses to make predictions.

Poisoned

Datasets that have been tampered with, manipulated, or otherwise distorted in a manner that negatively impacts the quality and utility of the dataset.

Precision

Precision in AI and machine learning specifically refers to the number of true positive results divided by the number of all positive results, including those not correctly identified. It measures how many of the items identified as relevant are indeed relevant.

Predictions

AI model outputs that result from correlating information and recognizing patterns from past events or instances (data) with new data to forecast the likelihood of an event or instance occurring in the future – meaning AI models offer probabilities and carry inherent uncertainty.

Predictive Analytics

The overarching category of statistical tools and models that can use and analyze historical data to make predictions about the future to inform decision-making.

Privacy

No widely agreed upon definition, but generally the broad category of personal interests associated with being free from unauthorized observation, surveillance, or intrusion.

Probabilities

Calculations that predict the likelihood of the occurrence of a certain event.

Production Data

The data used by the model once it is released for operational or commercial use.

Proprietary Data	Proprietary data belongs to and is reserved for its owner, who may decline to license or disclose it.
Recall	Recall in the context of machine learning and information retrieval is the measure of the model's ability to correctly identify all relevant instances within a dataset. Specifically, it is the number of true positive results divided by the number of true positives plus the number of false negatives.
Recommendation	A suggested outcome or course of action informed by a model's predictions.
Reinforcement Learning	Reinforcement involves learning from actions to achieve goals. In AI, it is a complex process where an agent learns to make decisions by taking actions in an environment to maximize some notion of cumulative reward.
Reliability	The ability of an AI model to produce consistent results over time.
Representative	A dataset is representative if it accurately and appropriately reflects or measures the population or phenomena it is intended to capture, relative to the purpose for which it will be used.
Responsible AI/Ethical AI/ Trustworthy AI	Concepts that are used to describe AI models and systems that are designed, built and operated with forethought and certain key attributes that protect human beings (such as fairness, safety, transparency and a respect for human autonomy) and denote a level of quality in their performance overall.
Risk Management	Establishing policies and practices to help manage and mitigate the risks posed by an AI system.
Robotic Process Automation	RPA technology automates repetitive and rule-based tasks by mimicking human interactions with digital systems. While AI capabilities can enhance RPA (creating intelligent process automation, or IPA), RPA itself does not inherently include AI tools for spatial navigation and task ordering.

Sentiment Analytics   Use of NLP and other AI techniques and inputs to correlate features of language (or facial movements, gaze, etc.) or other biometric data to analyze or predict humans' affective or emotional states.

Stochastic   Refers to AI models whose performance and outputs include some inherent level of uncertainty or randomness.

Structured Data   Data that is organized in standard formats and categorized contextually and relationally.

Supervised Learning   "Learning through instruction." A form of machine learning where engineers specify a desired out-come and feed the AI algorithm curated and labeled data to guide AI towards that outcome. For example, to teach a facial recognition AI to match names and faces, labeled facial data would be fed to its algorithm so it could learn which faces correspond to which names. This method is ideal for tasks with agreed-upon "correct" answers or decisions.

Synthetic Content/Deep Fakes   An AI-enabled technology that renders hyper-realistic content that can appear so real that it can exceed the capacity of human beings to detect it as fake.

Synthetic Data   Artificial data that is generated to have the same characteristics as real data but do not tie back to real people or events.

Technology Assisted Review   In the context of information science, mechanical systems for finding pertinent data in large datasets. Also/specifically, the use of algorithms to define and then narrow searches (of large quantities of data).

Test Data   The data used to evaluate how well a trained model is performing once it is built and before it is released.

Traceability   Refers to the availability of information related to an AI model's production

and deployment, including, but not limited to, when and by whom it was created, the datasets on which it was trained, the population(s) and context(s) in which it is and was deployed, and its performance.

Training (Human)   Coursework, lectures or training for employees, customers, and managers who need either basic or specialized training to understand, operate and manage frontier technologies.

Training Data   The historical data used to develop and teach an AI model the logic and pattern recognition to generate desired predictions in the future.

Transfer Learning   Reusing and reapplying a pretrained model for a new problem set, use case, or in a context for which it was not initially designed or trained.

Transparency   Concept associated with communicating how a model or system operates, generates outputs or is expected to make an impact, including known limits.

Uncleaned   A dataset in its raw or unfinished form.

Underfitting   Underfitting occurs when a model is too simple to capture the underlying pattern in the data, resulting in poor performance on both training and unseen data. It's not about assigning significance between features where none exists but about failing to model the relevant relationships in the data adequately.

Unlabeled   Data that lacks any information tags, annotations, or classifications.

Unstructured Data   Raw data or data points that lack any relational meaning or significance to one another.

Unsupervised learning   "Self-taught learning." A form of machine learning where unstructured and uncurated data is fed to a machine-learning algorithm which finds trends, patterns, and relationships in that data. This is useful for finding insights

humans may have overlooked or cannot perceive. This method is ideal for appli-cations without a firm "answer" and general data analysis.

Use Case Selection

Choosing and articulating the business or other applied purpose or goal for which AI tools will be used and defining the context for their application.

Validity

No agreed definition, but validity in the context of AI and research broadly refers to the extent to which a tool measures what it is supposed to measure. Validity involves the accuracy and appropriateness of conclusions or inferences based on the model's outputs.

Virtual Reality

Experiences that occur in entirely computer-simulated worlds, often immersive.

Policy No.:	**25-2**
Date:	December 2, 2025
Effective Date:	December 2, 2025
Re:	Mediation File Management

<u>PURPOSE</u>: To maintain confidentiality in mediations and prevent unintended disclosures of confidential mediation materials being disclosed to the assigned Administrative Law Judge ("ALJ") or contract mediator.

<u>APPLICABILITY</u>: This applies to all in-house OAH personnel and contract mediators.

<u>AUTHORITY</u>: I.C. §§ 9-808, 67-5280(2)(b), 67-5282(1)(g), 67-5282(1)(h), and 67-5282(1)(j)

<u>POLICY</u>: OAH has statutory authority to "conduct such . . . mediations . . . requested by agencies and agreed to by the office of administrative hearings[.]" From time-to-time, the mediation occurs during the pendency of a contested case proceeding conducted by OAH or, if mediation is unsuccessful, will be a contested case proceeding conducted by OAH. For that reason, there is a need to maintain separation of mediation documents and discussions from the assigned Administrative Law Judge. For that reason, the following policies will dictate mediation file management:

- The assigned mediator <u>will not</u> use any of the primary shared filing accounts to communicate with the parties (i.e., filings@oah.idaho.gov; general@oah.idaho.gov; healthfilings@oah.idaho.gov), and will instead utilize their own email and/or the adr@oah.idaho.gov email account;

- The assigned mediator <u>will not</u> save mediation materials in any shared drives (i.e., Clio or Sharepoint);

- The assigned mediator <u>will not</u> record any pre-mediation calls or the mediation itself <u>unless</u> a recording is necessary to memorialize any agreement reached by the parties;

- The mediator, at the conclusion of mediation, will only report that the matter did or did not settle to the assigned ALJ/Hearing Officer;

- The mediator will destroy all notes of the mediation once the notes are no longer needed (i.e., an agreement is written, confirmation that an agreement has been signed, etc.). It is understood that maintenance of mediation notes may be necessary for a period of time following the mediation to finalize matters;

- AND, the contested case, if any, will only reflect the following as it relates to mediation: (1) a request from the assigned ALJ to refer to mediation; (2) notice of appointment of mediator; and (3) notice from mediator re the post-mediation status of the proceeding.

- **NOTE**: Nothing in this policy prevents data tracking of settlements for purposes of analyzing the efficacy of mediation or mediation pilot programs.

Approved: _____
                        Chief Administrative Law Judge