

**LETTER OF UNDERSTANDING  
BETWEEN  
THE STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
AND  
THE WASHINGTON FEDERATION OF STATE EMPLOYEES  
AFSCME COUNCIL 28 AFL-CIO**

This agreement sets forth the process by which the Office of Administrative Hearings may utilize Temporary Administrative Law Judges (ALJ's) to address the extraordinary volume of unemployment cases due to the Covid 19 pandemic.

1. The COVID-19 pandemic and resulting increase in unemployment insurance cases has created a need for OAH to appoint many new ALJs on a temporary basis. Because the collective bargaining agreement that takes effect July 1, 2021 does not contemplate temporary ALJ appointments, the parties agree to the following to address this extraordinary circumstance.
2. OAH may make temporary appointments of ALJs:
  - a. To address an extraordinary workload peak or backlog of cases, or
  - b. To fill in when a permanent employee is absent for an extended period;
  - c. Only if the need cannot be met with existing employees, including scheduling available Pro Tem ALJs.
3. Temporary appointments shall not be used to displace permanent positions.
4. All temporary appointments will be for a designated period of time, and may be extended for up to 24 total months.
5. OAH may make temporary appointments of Lead ALJs and Senior ALJs following Section 3 of the Hiring and Appointments Article.
6. A permanent employee who accepts a temporary appointment within the agency will have the right to return to their prior job classification at the conclusion of their temporary appointment.
7. If a temporary ALJ is not re-appointed and does not have a permanent position to which to return, the temporary ALJ will be separated from employment at the end of the designated temporary appointment period. This separation will not be considered a layoff under the Layoff and Recall Article and the separated ALJ will not be placed on the layoff list.
8. OAH will ensure that temporary ALJs receive:
  - a. written performance expectations;
  - b. training and mentoring appropriate for the position and expectations; and
  - c. written notice of any performance deficiencies.

9. OAH may end a temporary appointment prior to the end of the temporary appointment period with 15 days' written notice, for *only* the following reasons, without meeting a just cause standard:
  - a. lack of funding, or
  - b. lack of work
10. Ending a temporary appointment *early* due to lack of funding or lack of work shall be considered a layoff under the Layoff and Recall Article, except that a laid off temporary ALJ will not be placed on the layoff list. Temporary ALJ job classes will be considered separate layoff units from permanent layoff units under Section 6 of the Layoff and Recall Article. Layoffs of temporary ALJs will occur in order of seniority as defined in Section 10 of the Layoff and Recall Article.
11. Temporary ALJs will be laid off prior to the layoff of any permanent ALJs.
12. If permanent ALJ positions become available, OAH will advertise the opportunity and consider all interested individuals who express interest in a permanent position through a competitive process, as outlined in 2b of the Hiring and Appointments Article.
13. A "permanent" position is any position anticipated to last longer than 24 months, or has been established for longer than 24 months; and a "permanent" employee is any employee who was hired into a permanent position.
14. All other provisions of the CBA apply to Temporary ALJs, other than what has been addressed in this letter.
15. This agreement is not precedent-setting.
16. This agreement is effective May 28, 2021 and expires June 29, 2023.



May 28, 2021

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For OFM

Date



May 28, 2021

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For WFSE

Date