

Independence of Administrative Law Judge (ALJ) Compared To Agency Attorney Examiner

	ADMINISTRATIVE LAW JUDGE	ATTORNEY EXAMINER/ ADMINISTRATIVE APPEALS JUDGE
HIRING PROCESS	OPM recommended; rigorous screening, testing, and a minimum requirement of 7 years trial experience	Agency selects whomever it wants; no independent OPM review; no required testing or trial experience
DISCIPLINE	Discipline, including removal, for “good cause” determined by MSPB after formal administrative hearing	Subject to agency discretion
HEARING AUTHORITY	Statutory authority for formal hearing on the record under the Administrative Procedure Act (APA)	No APA statutory authority
AGENCY CONTACT	Ex-Parte contacts about case facts prohibited	As agency employees no statutory prohibition on discussing cases with other agency employees
PERFORMANCE REVIEWS AND BONUS	Exempt from Civil Service Reform Act performance appraisal requirements; pay set by OPM and not tied to performance reviews; ineligible for Agency Bonus	Agency sets employee pay, reviews performance, and determines bonus
CLAIMANT’S APPEAL RIGHTS	Appeal from an ALJ decision is made to the agency’s Appeals Council by means of a letter. The next level of appeal is to Federal Court.	Loss of one level of appeal to the Appeals Council. Only appeal is to Federal Court.

**WHO WOULD YOU RATHER HAVE DECIDING YOUR FAMILY MEMBER’S
DISABILITY CASE?**