§ 31.6 Location and timing of oral hearing.

(a) If the Secretary grants a request for an oral hearing, the Secretary—

(b) For a current military employee, the Secretary selects the time, date, and location of the hearing after consultation with the Secretary of Defense.

§ 31.7 Hearing procedures.

(a) Independence of hearing official. A hearing provided under this part is conducted by a hearing official who is neither an employee of the Department nor otherwise under the supervision or control of the Secretary.

(b) Lack of subpoena authority or formal discovery. (1) Neither the hearing official nor the Secretary has authority to issue subpoenas to compel the production of documents or to compel the attendance of witnesses at an oral hearing under this part. The Secretary will attempt to make available during an oral hearing the testimony of a current official of the Department if—

(i) The employee had identified the official in the request for a hearing under §31.5(b) and demonstrated that the testimony of the official is necessary to resolve adequately an issue of fact raised by the employee in the request for a hearing; and

(ii) The Secretary determines that the responsibilities of the official permit his or her attendance at the hearing.

(2) If the Secretary determines that the testimony of a Department official is necessary, but that the official cannot attend an oral hearing to testify, the Secretary attempts to make the official available for testimony at the hearing by means of a telephone conference call.