authorized by this part, and to quash or modify any such subpoenas and orders;
(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;
(4) To take or cause depositions to be taken as authorized by this subpart;
(5) To regulate the course of the hearing and the conduct of the parties and their counsel;
(6) To hold scheduling and/or prehearing conferences as set forth in §509.31 of this subpart;
(7) To consider and rule upon all procedural and other motions appropriate in an adjudicatory proceeding, provided that only the Director shall have the power to grant any motion to dismiss the proceeding or to decide any other motion that results in a final determination of the merits of the proceeding;
(8) To prepare and present to the Director a recommended decision as provided herein;
(9) To recuse himself or herself by motion made by a party or on his or her own motion;
(10) To establish time, place and manner limitations on the attendance of the public and the media for any public hearing; and
(11) To do all other things necessary and appropriate to discharge the duties of a presiding officer.

§509.6 Appearance and practice in adjudicatory proceedings.

(a) Appearance before an Office or an administrative law judge—(1) By attorneys. Any member in good standing of the bar of the highest court of any state, commonwealth, possession, territory of the United States, or the District of Columbia may represent others before the Office if such attorney is not currently suspended or debarred from practice before the Office.
(3) Notice of appearance. Any individual acting as counsel on behalf of a party, including the Director, shall file a notice of appearance with OFIA at or before the time that individual submits papers or otherwise appears on behalf of a party in the adjudicatory proceeding. The notice of appearance must include a written declaration that the individual is currently qualified as provided in paragraph (a)(1) or (a)(2) of this section and is authorized to represent the particular party. By filing a notice of appearance on behalf of a party in an adjudicatory proceeding, the counsel agrees and represents that he or she is authorized to accept service on behalf of the represented party and that, in the event of withdrawal from representation, he or she will, if required by the administrative law judge, continue to accept service until new counsel has filed a notice of appearance or until the represented party indicates that he or she will proceed on a pro se basis.
(b) Sanctions. Dilatory, obstructionist, egregious, contemptuous or contumacious conduct at any phase of any adjudicatory proceeding may be grounds for exclusion or suspension of counsel from the proceeding.

§509.7 Good faith certification.

(a) General requirement. Every filing or submission of record following the issuance of a notice shall be signed by at least one counsel of record in his or her individual name and shall state that counsel’s address and telephone number. A party who acts as his or her own counsel shall sign his or her individual name and state his or her address and telephone number on every filing or submission of record.
(b) Effect of signature. (1) The signature of counsel or a party shall constitute a certification that: the counsel or party has read the filing or submission of record; to the best of his or her knowledge, information, and belief formed after reasonable inquiry, the filing or submission of record is well-grounded in fact and is warranted by existing law or a good faith argument.
§ 509.9 Ex parte communications.

(a) Definition—(1) Ex parte communication means any material oral or written communication relevant to the merits of an adjudicatory proceeding that was neither on the record nor on reasonable prior notice to all parties that takes place between:
   (i) An interested person outside the Office (including such person’s counsel); and
   (ii) The administrative law judge handling that proceeding, the Director, or a decisional employee.

(2) Exception. A request for status of the proceeding does not constitute an ex parte communication.

(b) Prohibition of ex parte communications. From the time the notice is issued by the Director until the date that the Director issues the final decision pursuant to §509.40(c) of this subpart:

(1) No interested person outside the Office shall make or knowingly cause to be made an ex parte communication to the Director, the administrative law judge, or a decisional employee;

(2) The Director, administrative law judge, or decisional employee shall not make or knowingly cause to be made to any interested person outside the Office any ex parte communication.

(c) Procedure upon occurrence of ex parte communication. If an ex parte communication is received by the administrative law judge, the Director or other person identified in paragraph (a) of this section, that person shall cause all such written communications (or, if the communication is oral, a memorandum stating the substance of the communication) to be placed on the record of the proceeding and served on all parties. All other parties to the proceeding shall have an opportunity, within ten days of receipt of service of