

HOW A TRAUMA INFORMED IMMIGRATION HEARING ROOM COULD FUNCTION (AFTER HEALTH CONDITIONS SUPPORT FACE TO FACE MEETING)

Rev 1/30/22, J. McMahon



The Hearing Room

- Table set up like that used in mediations.
- Judge sits at the head of the table and controls all aspects of the hearing.
- Applicant/respondent (“applicant”) and his counsel on one side; DHS on the other.
- Seats on each side of the Judge left open for: (a) testifying witnesses (so the examining attorney is facing the witness); or (b) a camera when having video sessions.
- Video screen for those attending remotely (at the end of or beside the table).
- Microphones or omni-directional mic on the table.
- If translation is needed, translator can sit at an appropriate place at the table.

The Participants

- Business apparel for all except a detained applicant.
- Customary courtroom etiquette.
- Unless otherwise ordered, counsel remain seated to address the Court.
- If sequestration is ordered, witnesses wait outside the hearing room.

The Process

- Reduce the number of times the applicant must describe the traumatic events:
 - Consider written or video submittal of ‘direct testimony’ (as used in arbitration) and then move directly to cross and redirect at the face to face hearing.
 - Ensure DHS and the Court have a full opportunity to advance their relevant questions.
 - Permit such redirect as needed.
- Consider breaking the applicant’s testimony into shorter sessions (long breaks during testimony or break up applicant’s testimony with testimony from other witnesses).
- Shorten the hearing by having the Court/DHS review the submitted documents prior to hearing to: (a) identify areas of the applicants I-589/written or video direct that appear incomplete; or (b) subjects on which the Court desires additional testimony.
- Court/DHS participants understand effects of trauma/PTSD on recollection/ability to testify.