

MILPERSMAN 1910-508

WITNESSES AT ADMINISTRATIVE BOARD

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1. Requesting Witnesses

a. Respondents or their counsel may request the attendance of witnesses on their behalf at the hearing. Requests shall be submitted to the convening authority (CA) via the senior member of the board.

b. If witnesses require temporary additional duty (TEMADD) or invitational travel orders, requests shall contain

(1) a synopsis of the testimony that the witness is expected to give,

(2) an explanation of the relevance of such testimony,
and

(3) an explanation as to why written or recorded testimony would not be sufficient to provide for a fair determination.

2. **Witness Availability.** Follow this table if respondent submits a request for witnesses.

IF ...	THEN the hearing ...
the senior member of the board determines that the personal testimony of the witness is not required,	shall be postponed to provide the respondent with a reasonable opportunity to obtain a written statement from the witness.
the commanding officer (CO) of a military witness determines that military necessity precludes the witness' attendance at the hearing,	
a civilian witness declines to attend the hearing, (This provision does not authorize a Federal employee to decline to appear as a witness if directed to do so per applicable procedures of the employing agency.)	
the CA determines the personal testimony of a witness is required,	will be postponed, if necessary for a reasonable time, to permit the attendance of the witness.

3. **Funding for Production of Witnesses.** The CA may authorize funding for production of witnesses only if the senior member of the board (after consultation with a judge advocate) or the legal advisor (if appointed) determines

- a. the testimony of a witness is not cumulative;
- b. the personal appearance of the witness is essential to a fair determination on the issues;
- c. written or recorded testimony will not accomplish adequately the same objective;
- d. the need for live testimony is substantial, material, and necessary for a proper disposition of the case; and

e. the significance of the personal appearance of the witness, when balanced against the practical difficulties in producing the witness, favors production of the witness. Factors to be considered in relation to the balancing test include, but are not limited to;

- (1) the cost of producing the witnesses,
- (2) the timing of the request for production of the witness,
- (3) the potential delay that may be caused by producing the witness, or
- (4) the likelihood of significant interference with military operations.