

NATIONAL ASSOCIATION OF HEARING OFFICIALS

2007 Annual Professional Development Conference



Santa Fe: Where the Trails Meet

Exploring Our Strengths
and Differences

*Professional Development for
Hearing Officials and
Administrative Law Judges*

November 4 - 7, 2007

**La Fonda on the Plaza
Santa Fe, New Mexico**



2007 ANNUAL PROFESSIONAL DEVELOPMENT CONFERENCE

About NAHO

Effective January 1, 1999, the nonprofit professional corporation of NAHO, Inc., officially started operations, following an amiable dissolution of its prior affiliation with the American Public Human Services Association. Independence was chosen by the NAHO membership in recognition of its changed purpose, mission, and composition to include hearings of administrative adjudicators of all agencies. The NAHO Board of Directors and members are committed to promoting the integrity of administrative hearings conducted in any forum.

NAHO Membership

Membership dues are \$35 per year or \$90 for a three-year membership. The fee is lowered to \$25 per year per person if ten or more join at the same time. If you have questions about being a NAHO member, contact Sherrie Teasley at (409) 951-3229, by fax at (409) 951-3253, or by email at sherrie.teasley@hpsc.state.tx.us. Membership dues should be mailed to NAHO – Attn: Membership, PO Box 4999, Midlothian, VA 23112. If you are joining through the conference registration, your dues may be sent to the Conference Registrar. *Join now and save on your 2007 conference registration fee!*

Important Dates

**To Receive Your Certification
at 2007 Conference**

Postmarked by July 15, 2007

Scholarship Application Deadline

September 4, 2007

Hotel Registration Deadline

October 3, 2007

Conference Registration Deadline

October 5, 2007

From the President



Welcome! Here is your personal invitation to the NAHO 2007 professional development conference.

This is a special year for NAHO. We are celebrating a marvelous milestone, twenty years of supporting hearing officials in their very important work everywhere in the country. Looking back over these past two decades, we can see an outline of many significant changes in American culture and government as NAHO has grown and developed. Within NAHO, we can appreciate those who had a vision for NAHO and who worked so generously to bring it to reality. We can take pride in their accomplishments and the respect that NAHO enjoys today.

And here we are, looking forward to our 2007 annual professional development conference. As is fitting for such a milestone year, our program this year will exceed your expectations. You will be able to choose from a great lineup of substantial offerings, from the best basics to topics that will challenge seasoned professionals. You will leave with a wealth of tools, insights, information and experiences that will enrich and improve your practice as a hearing official.

We are excited to offer this rich curriculum in a most attractive location. Our members have requested many times over the years since 1999 that NAHO hold another conference in Santa Fe, New Mexico. What a pleasure it is to invite everyone to come experience its special magic. Did you know that 2007 is the 400th anniversary of the founding of the Royal City?

The La Fonda Hotel on the Plaza will be our incomparable gathering place. Its vintage character and colorful charm will add a little something extra to every conference session. The staff delight to welcome NAHO back to their historic property. Of course, the hotel itself offers amenities such as unusual shops, a fine restaurant, and concierge and spa services, but perhaps its best feature is its exceptional location right at the heart of the historic center of Santa Fe. The Plaza is right out the front doors, and within just two blocks are the Palace of the Governors, St. Francis Cathedral, Loretto Chapel, the Museum of Fine Arts and the O'Keeffe Museum. Just beyond the Plaza but close by is a world of other marvelous museums and historic sights, seemingly endless art galleries and boutique shops, and varied fine and casual dining choices sure to please everyone. The backdrop to all this beauty and fun is the spectacular mountain scenery of Northern New Mexico, with its many recreational opportunities.

Please join your friends and colleagues in Santa Fe this fall. I hope you will register now for this exceptional event. No one else can offer this combination of possibilities for personal and professional exploration this year. Don't wait to reserve your space!

- Ellen G. Anderson, President
National Association of
Hearing Officials

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Conference Hotel

LaFonda on the Plaza
100 East San Francisco
Santa Fe, NM 87501
Telephone: (505) 982-5511
Toll-free: 1-800-523-5002
Fax: (505) 988-2952
www.lafondasantafe.com



Making Your Hotel Reservations

The deadline to receive the conference rate for your hotel room is **October 3, 2007**.

All conference participants must contact the LaFonda either by on-line reservation located at <http://www.lafondasantafe.com/email-group.html> or by telephone at (505) 982-5511 or toll-free at (800) 523-5002 to reserve your hotel room. Please reference the conference block name, **NAHO Professional Development Conference**, to receive the federal per diem rate. You will need to provide a credit card number to guarantee your room. The guaranteed room block is limited, so make your reservations early.

The hotel is extending the attendees of the 2007 Annual Professional Development Conference the 2007 federal per diem. The approved lodging per diem for Santa Fe is currently \$83. This amount is subject to change by the General Services Administration, in which case the hotel lodging rate will change. State and local taxes will also be added.

All guaranteed reservations require a 48-hour notice (2 days before arrival date) of cancellation or room will be billed to credit card number.

Getting There

✓ Major airlines serve Santa Fe via the Albuquerque International Airport, just 60 miles to the south.

✓ Regular shuttle bus service connects the two cities and rental cars are readily available.

- **Sandia Shuttle** 888-775-5696 or 505-474-5696
www.sandiashuttle.com
- **Santa Fe Shuttle** 888-833-2300 or 505-243-2300
www.shuttlesantafe.com

✓ AMTRAK trains stop at the Lamy depot, 14 miles from downtown Santa Fe. Transportation is available from the station.

Hotel Highlights

- High-speed wireless Internet access
- Covered parking (additional charge)
- Nightly turndown service
- Multi-lingual concierge service
- Room Service
- Valet laundry
- Child care services available
- Business center
- Gift shop/Newsstand
- The Lobby Shops at La Fonda

La Fonda hotel's state-of-the-art fitness center and spa features an outdoor hot tub and heated swimming pool, massage room, an exercise room and men's and women's steam rooms and showers.

Room Amenities

- Luxurious pillow-top beds
- Wireless internet access
- Voice message service
- Plush terrycloth bathrobes
- Coffee maker
- Cable television
- In-room movies
- In-closet safe
- Hair dryer
- Iron and iron board

What to Do While in Santa Fe

Nicknamed "The City Different," Santa Fe is an ancient city nestled at 7,000 feet in the foothills of the Sangre de Cristo Mountains. The city was established in 1610 and is the oldest capital city in the United States.

For information on area attractions/events, contact the Santa Fe Convention and Visitors Bureau at (800) 777-2489 or santafe.org. A free 96-page visitors guide to Santa Fe is available to order on this site.

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Registration Information

As space is limited, registrations will be accepted on a first-come, first served basis. You may register either on-line via the registration link at www.naho.org or submit by mail to NAHO, c/o ND Office of Administrative Hearings, 1707 North 9th Street, Bismarck, ND 58501.

Registration, guest fees, and membership fees may be paid by agency check, personal check, or agency voucher payable/ purchase order submitted to the address above. We also offer the ability to pay your fees by credit card when you register on-line. Our credit card payments are processed through PayPal.

Registration is not complete until arrangements are made for processing registration fees.

Registration fees are transferable. A full refund will be given up to **October 5, 2007**. A cancellation fee of \$75 will be deducted from your refund for cancellations made between **October 5, 2007**, and **October 19, 2007**. **NO REFUNDS WILL BE GIVEN AFTER OCTOBER 19, 2007.**

Fees

\$420	Regular
\$360	NAHO member
\$100	Per session or \$200 per day
\$65	Guests (reception and banquet only)
\$30	Luncheon (guests)
\$35	NAHO membership
\$25	Late fee (after 10/5/2007)

Scholarships

For information, contact Hugo Franco at hfranco@azdes.gov. Scholarships are available to NAHO members only. Applications must be postmarked by September 4, 2007.

Course Descriptions

Please note that we will make every attempt to adhere to this list of short course descriptions and presenters. Should any last minute changes become necessary, your consideration will be appreciated. Designations after the workshop title refer to classification of courses accepted by NAHO for certification of hearing officers and administrative law judges. For complete information on required and elective course credit for certification, see the certification application on the NAHO website, www.naho.org.

ADMINISTRATIVE DRIVER'S LICENSE REVOCATION HEARINGS *(Substantive)*

Al Lama, New Mexico Deputy Attorney General

This course will explore the protocol for conducting hearings pertaining to the revocation of driver's licenses under the Implied Consent Act and other legal authorities. It will explain, in detail, the due process necessary to properly revoke a driver's license for infractions of these laws and address the legal and practical requirements for conducting fair and impartial license revocation hearings.

CONDUCT & CONTROL OF ADMINISTRATIVE HEARINGS *(Mandatory)*

Jim Gerl, J.D., Attorney, Scotti & Gerl, Lewisburg, West Virginia

This session goes to the heart of what a hearing officer does. There will be discussion of the following: making a complete record, maintaining order and decorum, controlling the proceeding, dealing with witnesses and exhibits and related topics. Emphasis will be placed upon managing the hearing consistent with the parties' right to due process. The presenter will reveal his Eight Rules for conducting a hearing.

DECISION WRITING *(Mandatory)*

Judge Lynn Pickard, New Mexico Court of Appeals

This presentation will teach the fundamentals of writing decisions that are understandable, if not persuasive, to the different audiences for whom the decision is written – the parties, the reviewing courts, and the public.

DEMEANOR EVIDENCE AND CREDIBILITY DETERMINATIONS FOR HEARING OFFICIALS *(Mandatory)*

Gregory Ogden, Professor, Pepperdine University School of Law

Professor Ogden will discuss the nature, history, and use of demeanor evidence to determine credibility of witnesses in fact finding. Other credibility factors will be discussed including consistency or inconsistency of statements, discussion of psychological research related to truth telling and deception, and how that research may apply to credibility determinations. An analysis of written decisions by ALJs who have used demeanor evidence in making credibility determinations will provide hypotheticals for course discussion. The course includes extensive materials prepared in advance, and given to participants as part of the course materials.

DIVERSITY IS A GIVEN, INCLUSION IS A CHOICE *(Mandatory)*

Rochelle Lari, Diversity Leadership Program, Sandia National Laboratories

The fabric of the United States is changing dramatically and will continue to change in the future. Although we have been considered diverse in the past, the melting pot theory (where our immigrant ancestors tried to shed their differences in hopes of becoming "American") has given way to greater desires to be recognized for our individual differences and uniqueness. Through presentation and the use of interactive experiential models, participants will recognize the reality of their own individual uniqueness, understand the paradox of diversity and expand an appreciation of their differences and similarities. Given this increased awareness of diversity, participants will also become familiar with the importance of making conscious choices regarding inclusive behaviors and decisions. Participants will understand the implications of productive engagement and gain an insight into the power of developing positive relationships and increased personal and workplace productivity.

DUE PROCESS - DO YOU PROVIDE IT? *(Mandatory)*

Laurence H. Geller and Peter Hemenway, Retired Administrative Law Judges, California Department of Social Services

We begin by providing an in-depth review of *Goldberg v. Kelly*, and how other court cases and federal and state regulations have expanded or limited the concept of due process. We then examine some specific due process problems, and how we, as Hearing Officials, can handle them effectively.

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ENSURING UNBIASED ADMINISTRATIVE HEARINGS: PROJECTING AN APPROPRIATE Demeanor (Mandatory)

Paul Biderman, Director, Institute of Public Law, University of New Mexico School of Law and Judge James J. Wechsler, New Mexico Court of Appeals

We will discuss how hearing officials can protect litigants, attorneys, witnesses, and others with whom they work from perceiving bias in their hearing processes or in their offices. The session will start by reviewing surveys revealing how people perceive bias in ways that hearing officials may not realize. The discussion will turn to legal authority on bias and its impacts, including analysis of the NAHO Code of Ethics and the impact of sexual harassment and other discrimination claims under the law. One or more live and/or taped presentations by people who have experienced bias first-hand will drive home the effect of bias on the perceived fairness of the hearing process. Finally, participants will have an opportunity to experience the effects of bias for themselves through role plays, and see how their demeanor conveys impressions of attitudes, whether or not intentionally. As a result of attending this session, participating hearing officials will be better able to identify elements of their own or other people's behavior that may be perceived as biased; they will be better able to articulate the likely reactions of those who experience such behavior as biased in their hearings and other official acts; and they will be able to take appropriate action to eliminate bias from their hearings.

EVIDENCE BASICS FOR HEARING OFFICIALS (Mandatory)

Gregory Ogden, Professor, Pepperdine University School of Law

Basic principles of evidence for hearing officials will be discussed including the following topics: Admissibility of evidence; hearsay rule, exceptions, and legal residuum rule; privileges, including self-incrimination, and attorney-client privilege; burdens of proof, prima facie case, presumptions, and reliability; foundation, authentication, and judicial notice; impeachment, prior inconsistent statements, and character for truthfulness; making a record, fact finding and standards for judicial review.

FAIR, INDEPENDENT, AND IMPARTIAL: REALISTIC GOAL OR IMPOSSIBLE DREAM? PART I (Mandatory)

Laurence H. Geller and Peter Hemenway, Retired Administrative Law Judges, California Dept. of Social Services

Whether employed by the agency for which you hear cases, or working for a central agency or other employer, your performance in the conduct of hearings is being constantly reviewed by that employer. Other participants at the hearing are constantly evaluating you. We will discuss how to maintain objectivity and independence as these subtle and overt pressures come into play.

FAIR, INDEPENDENT, AND IMPARTIAL: REALISTIC GOAL OR IMPOSSIBLE DREAM? PART II (Mandatory)

Laurence H. Geller and Peter Hemenway, Retired Administrative Law Judges, California Dept. of Social Services

We will examine how our personal biases affect the work we do as hearing officials, and how we can minimize the effect of those biases in our conduct of the hearing, and in writing the decision.

HISTORY AND EVOLUTION OF ADMINISTRATIVE LAW (Mandatory)

Gregory Ogden, Professor, Pepperdine University School of Law

Discussion of the nature, history, and evolution of American administrative law. Topics will include the history of administrative law in the United States, starting with the early federal agencies (ICC, FTC), the new deal expansion of federal agencies, the adoption of the federal APA, the later expansion of federal agencies in the 1960's and 1970's, and the evolution of state administrative law, including the rise of worker's compensation agencies, and state pension laws, the adoption of the MSAPA, and the development of state agencies in social welfare fields as a response to federal laws, and money. Other topics include types of agencies and administrative agencies functions in the executive branch, development of administrative adjudication, and rulemaking, and the important roles played by the courts in developing the law governing administrative agencies.

NAHO Certification Program

In 1995 NAHO initiated a certification program for hearing officials. This program is dedicated to developing uniform standards of excellence and professionalism for hearing officials and administrative law judges across the country.

Applications for certification or recertification must be postmarked no later than **July 15, 2007**, if you wish to receive the certification at the conference in November. Courses attended at this year's conference may be considered towards meeting certification requirements for 2007. Check the NAHO website for a list of where this year's courses fit certification requirements. Core requirements can be met at annual NAHO conferences or other recognized programs addressing the hearing process, including those sponsored by the National Judicial College, the National Association of Administrative Law Judges, state agencies, state bar-approved continuing legal education, accredited colleges, paralegal programs, or law schools.

For complete information on certification, access the NAHO website or you may also contact one of the Certification Committee co-chairs: Barbara Ann MacDonald at (972) 647-9219 or by email at txlonghorn339@tx.rr.com or Ramona Collingsworth at (817) 462-3878 or by email at ramona.collingsworth@hpsc.state.tx.us.

CLE Credits

Each course is 1.5 hours. Courses with Parts I & II are 3 hours. The general sessions are 1 hour each.

New Mexico attorneys: CLE credits have been applied for.

Attorneys from other states are responsible to apply to their own state bars for CLE credits.

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Conference Information

For further information regarding the conference, check the NAHO web page at www.naho.org or contact:

Bonny M. Fetch
bfetch@nd.gov

Sharon Kulp
shkulp@hotmail.com

Please Note

Persons with special dietary needs or persons with disabilities who may need auxiliary aids, services, or a type of other accommodation are requested to contact:

Elizabeth Patterson
(701) 328-3296
epatterson@nd.gov

On-line Registration

Be sure to take advantage of the on-line registration being offered this year. See www.naho.org for more information!

New Mexico Fun Facts

Did you know . . . New Mexico is one of the four corner states, bordering at the same point with Colorado, Utah, and Arizona.

For more New Mexico fun facts, visit <http://www.governor.state.nm.us/ME/DIA/PDF/newmexicofunfacts.pdf>.

HUMAN RIGHTS HEARINGS - FOCUS ON FAIRNESS

(Elective)

Francie Cordova, Director, New Mexico Human Rights Commission

Discrimination is a many-headed Hydra which appears in diverse forms. Claimants alleging discrimination look to the administrative adjudicatory process for fairness and relief. The New Mexico Human Rights Division investigates claims of discrimination in race, gender, age, disability, spousal affiliation, sexual orientation, gender identity, religion, and serious medical condition. Ms. Cordova will discuss the Division's process from receipt of complaint, making a "probable cause" determination, and the administrative evidentiary hearing (how the factual case is presented, application of federal and state law and rules, and rendering a fair decision).

JUDICIAL REVIEW OF ADMINISTRATIVE AGENCY DECISIONS

(Elective)

Judge Michael D. Bustamante, New Mexico Court of Appeals

Discussion of the availability of judicial review of administrative agency decisions, its constitutional and statutory basis, including the Administrative Procedure Act, the required exhaustion of administrative remedies, standing to seek judicial intervention and other related procedural doctrines. Judge Bustamante will also discuss the scope of judicial review such as deference accorded to agencies on findings of fact, weight of the evidence and credibility, the de novo analysis of conclusions of law, and the standard of review and other perspectives from the bench on selected cases.

MAKING YOU #1 NOW!

(Elective)

Laurence H. Geller, Retired Administrative Law Judge, California Department of Social Services

Is life passing you by? Are you too busy to find time to take care of your needs? If your life is out of control, take a 90 minute break from it and get it back.

NEW MEXICO TERRITORIAL JUSTICE: 1846 - 1912

(Mandatory)

Justice Patricio M. Serna, New Mexico Supreme Court

A history of the administration of justice in New Mexico from the American occupation in 1846 until statehood in 1912. The presentation will focus on the lives and activities of several Supreme Court justices in the context of territorial times.

RULING ON OBJECTIONS (PARTS I AND II)

(Elective)

Jim Gerl, J.D., Attorney, Scotti & Gerl, Lewisburg, West Virginia

This two part interactive program will concern how a hearing officer properly rules on objections raised during a hearing. The first part of each session will involve a brief review of the generally applicable administrative rules of evidence. This will be followed by extensive practice by participants in ruling on objections in a series of mini-mock hearing scenarios. Other participants and the presenter will then provide constructive feedback as to the rulings.

SOCIAL SECURITY HEARINGS

(Substantive)

Peter Hemenway, Retired Administrative Law Judge, California Department of Social Services

We will discuss developing the record at the hearing and whether additional medical evaluations, and other information, are necessary; writing the decision; and reviewing the Sequential Evaluation requirements. Participants should have a working knowledge of the disability evaluation process.

SPECIAL EDUCATION (DUE PROCESS) HEARINGS

(Substantive)

Jim Gerl, J.D., Attorney, Scotti & Gerl, Lewisburg, West Virginia

This session will serve as an introduction to special education law. Basic concepts of special education law will be examined. Particular emphasis will be placed upon unique procedural aspects of special education hearings and upon Supreme Court decisions interpreting the special education law.

THE CARE AND FEEDING OF WORKERS' COMPENSATION LITIGANTS: WORKING WITH PRO SE CLAIMANTS

(Elective)

Gregory D. Griego, New Mexico Workers' Compensation Judge

Workers' compensation administrative hearings and substantive law are significantly different from other types of hearings and law so as to confuse unrepresented workers. This program will provide tools that a hearing officer can use to educate workers about the hearing process, as well as inform them of what constitutes relevant evidence. The program will also offer some approaches on the preparation for and conduct of a hearing with an unrepresented worker.

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Instructions for Course Selection

Registrant's Last Name, First Name, MI

If registering on-line, please complete the course selection on-line. If registering by hard copy, you will need to download the registration form at www.naho.org. You may use this form for your course selection. Return the registration form and this course selection form, along with your payment to the address indicated. Please make your first and second choices of courses by designating "1" or "2" in the boxes provided for each session. Every effort will be made to honor your first preference; however, enrollment may be limited in certain classes and we cannot guarantee seating in your first choice. Early registrations will be given priority. Late registrations are subject to availability of workshops. **KEEP A COPY FOR YOUR RECORDS.**

SUNDAY, November 4, 2007

- 10:00 am - 4:00 pm Registration
- 1:30 pm - 2:00 pm Conference Opening
- 2:00 pm - 4:00 pm SESSION 1 - Roundtables (Select One)
- ___ 1a. Managers of Hearing Officers
___ 1b. Human Services Hearing Officers
___ 1c. Other Hearing Officers
- 5:00 pm - 7:00 pm Welcome Reception

MONDAY, November 5, 2007

- 8:30 am - 9:00 am WELCOME
- Opening Remarks – Ellen Anderson, NAHO President
Welcome Speaker – Office of Mayor of Santa Fe, NM
- 9:00 am - 10:00 am SESSION 2 – General Session
- History and Evolution of Administrative Law (M)*
Professor Gregory Ogden, Pepperdine University
- 10:15 am - 11:45 am SESSION 3 (Select 1st and 2nd Choice)
- ___ 3a. (M) Due Process - Do You Provide It?
___ 3b. (M) Conduct and Control of Administrative Hearings
___ 3c. (E) Judicial Review of Administrative Agency Decisions
- 11:45 am - 1:15 pm LUNCHEON - Gary King, NM Atty General
Speaker
- 1:30 pm - 3:00 pm SESSION 4 (Select 1st and 2nd Choice)
- ___ 4a. (M) Ensuring Unbiased Administrative Hearings:
Projecting an Appropriate Demeanor
___ 4b. (M) Evidence Basics for Hearing Officials
___ 4c. (M) Diversity is a Given, Inclusion is a Choice
- 3:30 pm - 5:00 pm SESSION 5 (Select 1st and 2nd Choice)
- ___ 5a. (S) Special Education (Due Process) Hearings
___ 5b. (S) Administrative Driver's License Revocation Hearings
___ 5c. (E) The Care and Feeding of Workers' Compensation Litigants: Working With Pro Se Claimants

TUESDAY, November 6, 2007

- 8:30 am - 10:00 am SESSION 6 (Select 1st and 2nd Choice)
- ___ 6a. (E) Ruling on Objections (Part I)
___ 6b. (M) Fair, Independent, and Impartial:
Realistic Goal or Impossible Dream?
(Part I)
___ 6c. (M) Demeanor Evidence and Credibility
- 10:30 am - 12:00 pm SESSION 7 (Select 1st and 2nd Choice)
- ___ 7a. (M) Decision Writing
___ 7b. (M) Fair, Independent, and Impartial:
Realistic Goal or Impossible Dream?
(Part II)
___ 7c. (E) Ruling on Objections (Part II)
- 1:30 pm - 2:30 pm SESSION 8 - General Session
- New Mexico Territorial Justice - 1846-1912 (M)*
Justice Patricio M. Serna, New Mexico Supreme Court

- 3:00 pm - 4:00 pm NAHO Membership Meeting
- 6:00 pm BANQUET - Entertainment will be
Baile Illusion, Spanish dancers
___ Check here if you would prefer
a vegetarian meal

WEDNESDAY, November 7, 2007

- 9:00 am - 10:30 am SESSION 9 (Select 1st and 2nd Choice)
- ___ 9a. (S) Social Security Hearings
___ 9b. (E) Human Rights Hearings - Focus on
Fairness
___ 9c. (E) Making You #1 Now!
- 10:45 am - 11:15 am CLOSING SESSION
- Certificates of Attendance Presented

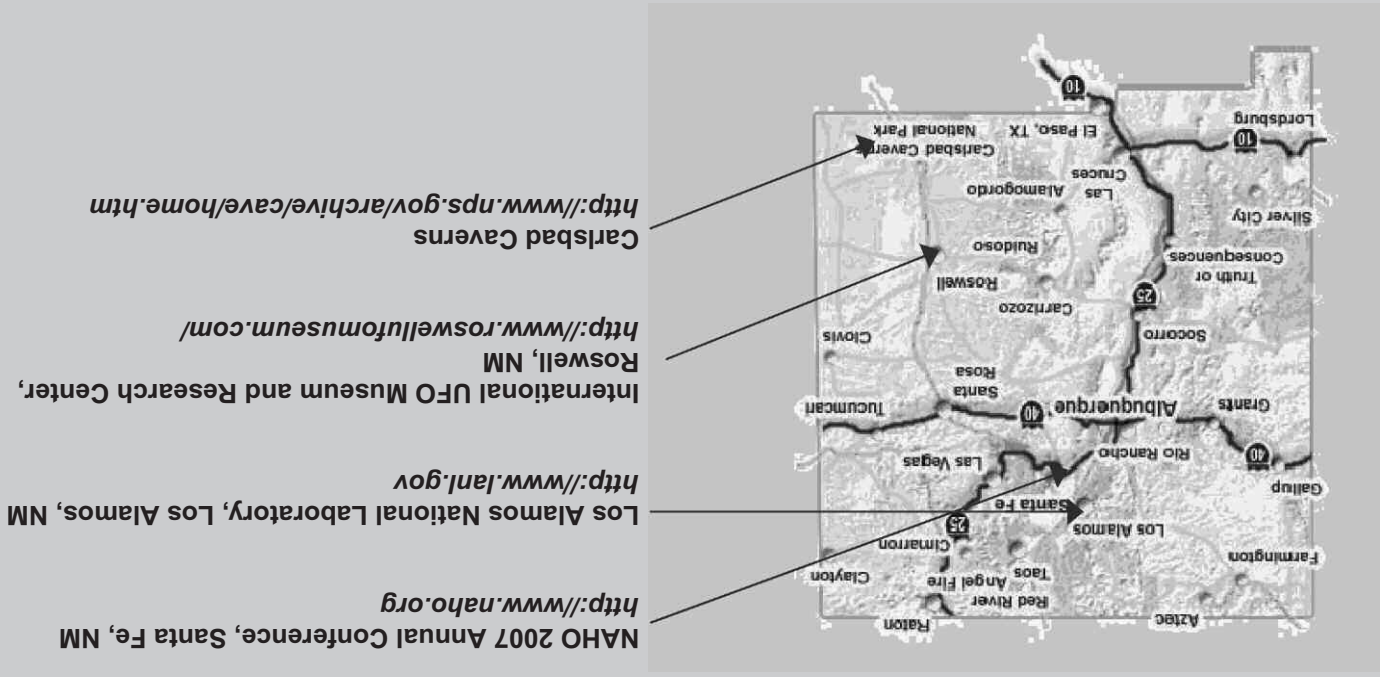
NAHO
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Midlothian, VA 23112

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**CONFERENCE
REGISTRATION DEADLINE:
OCTOBER 5, 2007**

Route to:

- ✓ Hearing Officers
- ✓ Administrative Law Judges
- ✓ Attorneys
- ✓ Paralegals
- ✓ Mediators/Arbitrators
- ✓ Hearings Representatives/Advocates
- ✓ Hearings Program Managers



Welcome to NEW MEXICO
The Land of Enchantment