



2014 Annual Report of the State Advisory Council on Administrative Hearings

Legislative Authority and Functions

The State Advisory Council on Administrative Hearings (the "Council") is authorized by State Government Article § 9-1608 of the Maryland Annotated Code. The Council was established with the following purpose and functions:

- 1) To advise the Chief Administrative Law Judge (CALJ) in carrying out his duties;
- 2) To identify issues of importance to administrative law judges (ALJ) that should be addressed by the CALJ
- 3) To review issues and problems relating to administrative hearing and the administrative process
- 4) To review and comment upon policies and regulations proposed by the CALJ
- 5) To advise the Governor as to those agencies for which a continuing exemption under § 9-1601 should be maintained
- 6) To submit an annual report, which may be prepared in conjunction with the Office of Administrative Hearings' (OAH) Annual Report to the Legislative Policy Committee of the General Assembly.

In the interest of government efficiency and economy, the Council submits its 2014 Annual Report in conjunction with the 2014 OAH Annual Report.

Council Membership

The Council consists of ten members. Leroy D. Maddox, Esquire, general public representative, continued to serve as Chair.

The following Council members served in 2014:

- Senator Jamie B. Raskin, appointed by the President of the Senate;
- Delegate Samuel I. Rosenberg, appointed by the Speaker of the House;
- Dr. Lillian Lowery, State Superintendent of Schools, agency representative;

- Florine Jones, general public representative;
- Judge Diane O. Leasure, Maryland State Bar Association (MSBA) representative;
- Natalie McSherry, Esquire nongovernmental attorney representative;
- Bruce P. Martin, Esquire, designee of the Attorney General;
- Susan Dishler Shubin, Esquire, Maryland State Bar Association (MSBA) representative; and
- Keith Tobias, agency representative, designee of the Department of Health & Mental Hygiene

Council Activities

The Council had meetings scheduled on January 22¹, May 14 and October 23, 2014 and the meetings were open to the public. Council members were kept apprised of OAH's overall operations, the monthly Administrative Law Judge (ALJ) training programs, the status of the current year's budget as well as the upcoming fiscal year's budget.

The Council would like to once again commend OAH for maintaining an approximate 99% timeliness rate for issuing written decisions in 2014.

ALJ Wayne A. Brooks, Deputy Director of Operations, reviewed the legislation that the OAH was monitoring during the Legislative Session. The OAH monitors bills that (1) could impact OAH's caseload; (2) may require ALJ training; (3) a "Request for Fiscal Note" has been submitted by the Department of Legislative Services; and (4) would provide a board with the option of delegating contested case hearings to a subset of board members.

CALJ Dewberry and members of his management staff continued to keep Council members apprised of foreclosure mediations that the OAH received under HB 472 – Real Property – Residential Property Foreclosure Procedures – Foreclosure Mediation. As a reminder, prior to the passage of HB 472 in 2010, CALJ Dewberry received a call from the Governor's Office asking if OAH would be able to conduct foreclosure mediations. The Circuit Court was unable to take on this workload and the Governor turned to the OAH. The law went into effect on July 1, 2010. In 2014, OAH's Director of Operations, ALJ Jana Burch; the Deputy Director of Quality Assurance, ALJ Denise Oakes Shaffer; and the Chief Clerk, Linda Novak, continued to work with the Courts, the Department of Housing and Community Development and the Department of Labor, Licensing and Regulation on the efficient handling of these mediations.

OAH received and scheduled 4,067 foreclosure mediations in Fiscal Year 2014. As reported in 2013, OAH hired and trained four contractual ALJs to assist with this significant increase in workload.

¹ The January 22, 2014 meeting was cancelled due to inclement weather.

Members of management staff also provided reports on the following:

- SB 281 – Firearm Safety Act of 2013 which provides that if an ALJ involuntarily commits an individual to a mental health facility the ALJ must also determine that the individual cannot safely possess a firearm based on credible evidence of dangerousness to others and order the individual to surrender any firearms in their possession. In 2013, OAH's IT Department worked with the Department of Health and Mental Hygiene to extract and securely transfer the data that was to be sent to the Maryland State Police. In 2014, an ALJ training session was held in April and ALJs began holding hearings on the prohibition.
- The Maryland Health Benefit Exchange (MHBE) bill which went into effect on October 1, 2013. The MHBE conducted an ALJ training in October and OAH reported on the number of appeals they received and advised that most were settled using the MHBE's internal settlement procedure. In addition, ALJ Shaffer attended an Affordable Care Act training.
- In 2013, OAH expressed concern to the Council regarding having to move its Patterson Avenue hearing space to Reisterstown Road. At that time, Delegate Rosenberg offered his assistance to resolve any problems that OAH was experiencing. OAH staff also noted their frustration with attempting to find hearing space in the Wheaton area. In 2014, OAH staff reported that the move from Patterson Avenue to Reisterstown Road was completed in March and that hearing space was located in Montgomery County and a 10 year lease was signed.

Council members were pleased that Governor O'Malley re-appointed CALJ Dewberry for his third six year term. We are also proud that the Governor appointed Deputy Director of Operations, ALJ Wayne A. Brooks, to the District Court of Maryland for Howard County. ALJs conduct hearings, determine facts, apply the law and render decisions. Those decisions have a tremendous impact on Maryland's citizens. They impact their employment, their access to mental health and medical treatments, their environmental concerns, their education, their safety on our roadway and a host of other issues too numerous to even begin to list. Because those decisions touch the lives of so many people in so many ways, an Administrative Law Judge must demonstrate, at all times, knowledge of vast areas of the law, judicial independence and judicial courage and ALJ Brooks has done this throughout his tenure at the OAH and Council members are extremely proud of his accomplishment and know that he will be a tremendous asset to the Judiciary because of his experience as an ALJ at the OAH.

Council members were also updated on the following:

- the many technology enhancements and changes
- meetings with agency personnel
- ALJ hiring and training

- staffing changes
- attendance at conferences
- presentations made
- public outreach

The Council wishes to emphasize that the attached OAH 2014 Annual Report provides detailed information on the items highlighted in this Report.