

2008 REPORT OF THE STATE ADVISORY COUNCIL ON ADMINISTRATIVE HEARINGS

Introduction

The State Advisory Council on Administrative Hearings (the "Council") was created by Chapter 788 of the Laws of 1989, the same act that established the Office of Administrative Hearings (the "OAH" or the "Agency"). The Council was created as a nine-member panel to advise the Chief Administrative Law Judge (the "CALJ") on policy matters relating to the administrative hearings process. In 1999, HB 657 increased the Council membership to ten.

State Government Article (SG) §9-1610(a)(6) of the Maryland Annotated Code requires the Council to submit an annual report to the Legislative Policy Committee of the General Assembly. §9-1610(a)(6) permits the Council and the OAH to prepare and submit joint annual reports.

In the interest of government efficiency and economy, the Council submits its 2008 Annual Report in conjunction with the 2008 OAH Annual Report. The OAH Annual Report provides detailed information on the items highlighted in this Report.

Council Membership

Leroy D. Maddox, Esquire, general public representative, served as Chair.

Other Council members are:

- Senator Jamin B. Raskin, appointed by the President of the Senate;
- Delegate Victor R. Ramirez, appointed by the Speaker of the House;
- Dr. Nancy S. Grasmick, agency representative, State Superintendent of the Maryland Department of Education;
- Nathan J. Greenbaum, Esquire, Maryland State Bar Association (MSBA) representative;
- Florine Jones, general public representative;
- Bruce P. Martin, Esquire, designee of the Attorney General;
- Richard Proctor, agency representative, Executive Director, Office of Public Relations and Governmental Affairs, Department of Health & Mental Hygiene ("DHMH")¹;

¹ On December 29, 2008, Richard Proctor advised that, effective January 5, 2009, he will no longer serve on the Council because of his acceptance of a position with the American Public Health Association.

- Susan Dishler Shubin, Esquire, MSBA representative; and
- Vacancy, nongovernmental attorney representative².

Many of the Council members' terms remain expired and they are therefore serving in a holdover capacity. The Council and CALJ Dewberry have contacted the Governor's Appointments Office on several occasions requesting the re-appointment of the following members: Leroy D. Maddox, Jr., Esquire; Dr. Nancy S. Grasmick; Nathan J. Greenbaum, Esquire; and Susan Dishler Shubin, Esquire.

Council Activities During 2008

The Council met in March and October; these meetings were open to the public. At the March meeting, noting the low attendance at previous Council meetings, CALJ Dewberry suggested that Council members consider reducing the number of yearly meetings.³ At the October meeting Council members voted to meet three times per year.

Council members were kept apprised of the OAH's overall operations, the monthly Administrative Law Judge (ALJ) training programs, the Agency's overall timeliness rate for issuing decisions; and the status of the current year's budget as well as the upcoming fiscal year's budget. It is noteworthy that, in 2008, the OAH's timeliness rate for issuing written decisions was 98.43%.

The following are matters that the Council would like to highlight:

In early 2008, CALJ Dewberry was re-appointed by the Governor and confirmed by the Senate for a second six-year term. He was sworn in by Governor Martin O'Malley on April 3, 2008.

Throughout the year, the OAH provided the Council with details on various technology enhancements that will provide better service to all users of and providers at the OAH as well as enhance office efficiencies. Below is a list of the enhancements:

- **Digital Recording System** – OAH is now using recording software which provides a greatly enhanced quality of recordings in the hearing rooms at Hunt Valley as well as through the ALJs' assigned laptops.
- **ALJ Laptops** – OAH deployed new laptop computers to each ALJ. All hearings are now recorded on the laptops, using the new recording software.

² On March 27, 2007, F. Vernon Boozer, Esquire submitted his resignation. As of December 31, 2008, this vacancy has not been filled.

³ State Government Article § 9-1620(b) of the Maryland Annotated Code provides:
Meetings. – The Council shall meet at a regular time and place to be determined by the Council.

- **Wireless Internet and Computers Installed in Law Library** - OAH now offers wireless Internet access at its Law Library. There are also two computers in the library for State employees and the public.
- **OAH and Motor Vehicle Administration (MVA) Automation of Operations** – OAH and MVA are working to develop a web retrieval system that electronically retrieves and transmits MVA hearing requests and case documents, which are used in MVA hearings, between the two agencies.
- **Citrix Presentation 4.5 Server** – OAH's Information Technology Department set up a Citrix web interface to deliver applications to ALJs with improved performance and security.

OAH continued its public outreach efforts. ALJs gave many local and national presentations. In addition, ALJs continued to visit area high schools to introduce *Branded D.U.I.* and speak to students about the consequences of drinking and driving. CALJ Dewberry participated in a Maryland Judicial Institute training program in March. A list of *Branded D.U.I.* presentations and speaking engagements is attached to OAH's 2008 Annual Report as Attachment .

Plans are underway to produce an OAH video. CALJ Dewberry named a committee of OAH employees who will work on this project in the upcoming year. He expects to have this video posted on OAH's website so that members of the public will have a resource available that will assist with demystifying the administrative hearing process.

Miscellaneous

OAH staff also kept Council members apprised of the following:

- Mediation training sessions
- CALJ Dewberry's participation on the Task Force to Combat Driving Under the Influence of Drugs and Alcohol
- Legislation that was monitored during the 2008 Legislative Session
- ALJ Wayne A. Brooks' participation in the Maryland Involuntary Admissions System project
- Meetings with other State agency personnel
- The revision of OAH's Rules of Procedure

Conclusion

Calendar year 2008 concludes the OAH's 19th year. The OAH was created by the Legislature in response to the public perception that an agency cannot fairly decide appeals of actions it has taken. The Legislature determined that an independent body of ALJs is better suited to make evidentiary rulings, interpret the law and apply the law to evidence. Ms. Shubin and Mr. Greenbaum have been

members of the Council since OAH's inception and their experience and dedication are greatly appreciated.

The Council once again commends the OAH for continually working to improve efficiency through enhanced technology and providing significant outreach locally and nationally.

The Council continues to take its role of advising and supporting the OAH very seriously. We are pleased that Governor O'Malley re-appointed CALJ Dewberry and we look forward to working with him during his second term. His leadership and vision for the agency and his cooperation with the Council stand as an example of true public service.

Finally, as OAH enters its 20th year, the Council recognizes the important contributions of each OAH employee, the individuals throughout State government and in the legal and business communities who participate in the administrative hearing process. Without the cooperation of all these people, OAH's success would not be possible.