



2010 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 2010 Annual Report in conjunction with the 2010 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 continued to serve in 2010:

- 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;
- James P. Johnson, agency representative, Deputy Secretary of Operations, Department of Health and Mental Hygiene (DHMH)¹
- Nathan J. Greenbaum, Esquire,² Maryland State Bar Association (MSBA) representative;
- Florine Jones, general public representative;
- Bruce P. Martin, Esquire, designee of the Attorney General;
- Susan Dishler Shubin, Esquire, MSBA representative; and
- Vacancy, nongovernmental attorney representative³.

In previous years many Council members' terms remained expired and they served in a holdover capacity. On September 17, 2010, Governor O'Malley reappointed: Leroy D. Maddox, Jr., Esquire for a term of four years from January 1, 2008; Nancy S. Grasmick, Ph.D for a term of four years from January 1, 2010; Nathan J. Greenbaum, Esquire for a term of four years from January 1, 2010; Florine E. Jones for a term of four years from January 1, 2010; and Susan Dishler Shubin, Esquire for a term of four years from January 1, 2008. In addition, CALJ Dewberry worked with Council members to fill the nongovernmental attorney vacancy.

Council Activities

The Council met in March, September and on January 5, 2011⁴; these meetings were open to the public. Council members were kept apprised of the 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. In 2009, Council members reviewed and commented on OAH's revised Rules of Procedure in accordance with Md. Code Ann. State Gov't 9-1610(a)(4). The comments provided by the Council were submitted to the OAH's Rules Committee for their consideration. Many of the suggestions made by Mr. Martin were incorporated and the Rules were finalized and resubmitted to the Joint Committee on Administrative, Executive and Legislative Review on January 5, 2010. The revised Rules of Procedure went into effect on March 22, 2010.

¹ On December 2, 2010, Mr. Johnson advised that he was retiring from State service and therefore would no longer be participating as DHMH Secretary John Colmers' representative. He indicated that Secretary Colmers would nominate Wendy Kronmiller, Chief of Staff, DHMH. He advised that this request would be pending approval through the Governor's Appointment Office. Ms. Kronmiller attended the January 5, 2011 Council meeting.

² Prior to the January 5, 2011 Council meeting, Mr. Greenbaum submitted a letter of resignation.

³ On March 27, 2007, F. Vernon Boozer, Esquire submitted his resignation. As of December 31, 2009 this vacancy has not been filled.

⁴ Due to Council members' limited availability in December of 2010, a meeting was held on January 5, 2011.

At the March 17th meeting 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.

As a follow-up from the 2010 Legislative Session, CALJ Dewberry and members of his management staff reported on the passage of HB 472 – Real property – Residential Property Foreclosure Procedures – Foreclosure Mediation at the September meeting. During the legislative session CALJ Dewberry received a call from the Governor's Office asking if OAH would consider and 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. OAH's Director of Operations, ALJ Jana Burch; the Deputy Director of Quality Assurance, Denise Oakes Shaffer; and the Chief Clerk, Linda Novak, worked tirelessly on this bill and its implementation with the Courts, the Department of Labor, Licensing and Regulation and members of the General Assembly.

Council members are please that the Governor has exhibited his confidence in OAH and is certain that the OAH will excel in this important undertaking.

Council members were also updated on OAH's continued assistance to the Department of Labor, Licensing and Regulation, Unemployment Insurance (UI) Division, with hearing the backlog of unemployment insurance cases that have developed in the State of Maryland.

The Council would like to commend OAH for maintaining a 98% timeliness rate for issuing written decisions in 2010.

In 2009, the Council reported that CALJ Dewberry sought their advice regarding proposed legislation which would exempt ALJs from the State Personnel Management System's Planning, Performance and Evaluation system (PEP). The Council carried a motion that the OAH not support legislation which would exempt ALJs from the PEP process. In 2010, HB 275 – State Employees – Employee Performance Appraisals – Revisions - passed. This bill did not exempt ALJs from the PEP process and provided that mid-cycle evaluations be informal, reduced the rating categories from four to three and removed the requirement that employees submit a self-assessment. Since the passage of HB 275, the OAH must complete all employee end-cycle evaluations in January and July and the ALJ evaluation form must now conform with the appropriate State employee form designated by the Department of Budget and Management.

2010 marks OAH's 20th year of existence. An anniversary celebration was held on Monday, June 14th to which all Council members were invited, with several members in attendance. Senator Raskin presented CALJ Dewberry with a Senate

Resolution in honor of OAH's 20th anniversary. Many positive comments were made about the professionalism and reputation of the OAH - - not only in Maryland but nationally as well. It was recognized that Maryland's OAH is a leader of central panel states already in place as well as those states interested in the adoption of a central hearing agency.

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