



## 2012 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 2012 Annual Report in conjunction with the 2012 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 2012:

- Senator Jamie B. Raskin, appointed by the President of the Senate;
- Delegate Samuel I. Rosenberg, appointed by the Speaker of the House;

- Keith Tobias, agency representative, designee of the Department of Health & Mental Hygiene
- Florine Jones, general public representative;
- Bruce P. Martin, Esquire, designee of the Attorney General;
- Susan Dishler Shubin, Esquire, Maryland State Bar Association (MSBA) representative;
- Judge Diane O. Leasure, MSBA representative
- Vacancy, nongovernmental attorney representative<sup>1</sup>; and
- Vacancy, agency representative<sup>2</sup>

The Council was pleased to have Judge Diane Leasure appointed in 2012. Natalie McSherry, Esquire attended Council meetings in 2012. CALJ Dewberry recommended to the Governor's Appointments Office that Ms. McSherry and Lillian M. Lowery, Ed.D, State Superintendent of Schools, be appointed to the Council to fill the two vacancies.

### *Council Activities*

The Council met in May, October and December and the 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.

The Council would like to commend OAH for again maintaining an approximate 99% timeliness rate for issuing written decisions in 2012.

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. 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 2012, OAH's Director of Operations, ALJ Jana Burch; the Deputy Director of Quality Assurance, Denise Oakes Shaffer; and the

<sup>1</sup> On March 27, 2007, F. Vernon Boozer, Esquire submitted his resignation. As of December 31, 2011 this vacancy has not been filled. Natalie McSherry, Esquire unofficially attended Council meetings in 2012 and an official appointment from the Governor's Office is expected in the near future.

<sup>2</sup> CALJ Dewberry is recommending that the State Superintendent of Schools, Lillian M. Lowery, Ed.D be appointed to the Council.

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 handling this new area. In addition, in 2012 OAH worked on the implementation of HB 1374, the pre-file foreclosure mediation bill which went into effect on October 1, 2012.

In 2012, the number of mediation requests increased and OAH was receiving approximately 180 mediation requests per month, which was twice as many than in 2011. OAH reported that the schedule was extremely tight as 40 mediation dockets were being scheduled weekly. In addition, Council members were updated on the progress of hiring three contractual foreclosure mediation ALJs.

OAH reported that because of the significant increase in caseload they could no longer assist the Department of Labor, Licensing and Regulation, Unemployment Insurance Division (UI) with hearing the backlog of cases. Consequently, UI stopped sending these cases to OAH in May.

Council members are pleased that the Governor has exhibited his confidence in the OAH to handle this important legislation and increased caseload.

At the October meeting, Ms. Jones discussed complaints that she received regarding personnel hearings which are held via video conferencing in the Jessup area and Hagerstown correctional facilities. The complaints that she received dealt with professionalism, physical space, privacy, technical issues and objectivity.

OAH agreed to look into these complaints and discussed the feasibility of locating alternative hearing space outside of the facility or perhaps scheduling these DPSC personnel hearings at OAH's Hunt Valley headquarters. It was noted that approximately 45 DPSC personnel hearings are held per year and that some representatives were filing Motions requesting that the hearing location for these types of hearings be changed to Hunt Valley. Consequently, in some instances, the problem was being dealt with on a case-by-case basis.

Council members were also updated on the following:

- Technology enhancements
- Meetings with agency personnel
- Staffing
- Attendance at conferences
- Over-the-target budget requests for security and ALJ salary increase

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