



Fiscal Year 2018 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 Fiscal Year 2018 (FY18) Annual Report in conjunction with the FY18 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 FY18:

- Senator Susan C. Lee, appointed by the President of the Senate¹;
- Delegate Samuel I. Rosenberg, appointed by the Speaker of the House;
- Karen B. Salmon, Ph.D., agency representative;
- M. Natalie McSherry, Esquire, non-governmental attorney representative
- Bruce P. Martin, Esquire, Maryland State Bar Association (MSBA) representative;
- Michele McDonald, Esquire, designee of the Attorney General; and
- Susan Dishler Shubin, Esquire, Maryland State Bar Association (MSBA) representative.
- Keith Tobias, agency representative
- Vacancy, general public representative

Council Activities

The Council held meetings on October 18, 2017 and May 16, 2018. The February 7, 2018 meeting was cancelled due to inclement weather.

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.

Throughout FY18, OAH reported on the implementation of HB 628 – Secretaries of Principal Departments – Supervision and Review of Decisions by Units Within Departments. This bill passed in the 2017 Legislative Session and was effective on June 1, 2017. The bill generally requires the Secretary of each principal department to supervise each unit of State government within the Secretary's jurisdiction that is composed, in whole or in part, of individuals participating in the occupation or profession regulated by the unit in order to (1) prevent unreasonable anticompetitive actions by the unit and (2) determine whether the decisions and actions of the unit further a clearly articulated State policy to displace competition in the regulated market. The OAH must review a decision or action of a board or commission within the DHMH, in accordance with regulations adopted by the Secretary DHMH and OAH. OAH, in conjunction with the Office of the Attorney General (OAG), must establish a process for such review. Each board or commission within DHMH is responsible for the costs associated with OAH's review.

The bill required that DHMH and OAH convene at least two stakeholder meetings at least six months before proposing the required regulations and must submit the proposed regulations by June 1, 2018.

OAH created an in-house workgroup for drafting regulations, developing processes and training ALJs. OAH worked with DHMH and the OAG, convened two stakeholders' public meetings and draft regulations. The regulations, submitted jointly by DHMH and OAH, detailed how the boards and commissions will send cases to OAH.

¹ Senator Mike Miller appointed Senator Susan C. Lee to serve on the Council in the fall of 2018 to replace Senator Jamie Raskin.

The regulations were published as final on April 9, 2018. On February 9, 2018, ALJs received training on this new case type. As of May 16, 2018, OAH reported that it had received two cases which were Cease and Desist Orders on unlicensed practitioners.

As previously noted under the Council's "Legislative Authority and Functions" section, one of the functions of the Council is to "review and comment upon policies and regulations proposed by the CALJ." On October 19, 2017, Council members received a draft of the proposed regulations for their review and comment.

The OAH also provided Council members with detailed information on its plans to begin publication of decisions. OAH advised that its decisions will be published in a data base on OAH's website using a portal that will allow the public to search the full text of all of the available decisions. The portal will also allow for filtering of decisions by agency and then by unit or case types, which will enable individuals to find groups of cases similar to their owns. OAH's website will contain FAQs that explain the search process to users of the site.

The Council would like to provide the following highlights regarding OAH in FY18:

- Once again, maintained an approximate 99% timeliness rate for issuing written decisions;
- Worked to upgrade its case management system;
- Hired and trained four new ALJs;
- Hosted a visiting delegation of ALJs from the country of Georgia; and
- Scheduled meetings with hospitals around the State and the Office of Public Defender to ensure that each hospital is following safety protocols and has security personnel in place at involuntary admission hearings

ALJ Jennifer Carter Jones, Deputy Director of Operations, reviewed legislation that OAH was monitoring during the 2018 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.

Council members were also updated on the following:

- meetings with agency personnel
- ALJ training session
- Staffing changes
- attendance at conferences
- presentations
- public outreach

The Council wishes to emphasize that the attached OAH FY18 Annual Report provides detailed information on the items highlighted in this Report.