



## **Fiscal Year 2020 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 2020 (FY 20) Annual Report in conjunction with the FY 20 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 FY 20:

- Senator Susan C. Lee, appointed by the President of the Senate;
- Delegate Samuel I. Rosenberg, appointed by the Speaker of the House;

- Karen B. Salmon, Ph.D., agency representative;
- Thomas Andrews, agency representative;
- M. Natalie McSherry, Esquire, general public representative;<sup>1</sup>
- Bruce P. Martin, Esquire, Maryland State Bar Association (MSBA) representative;
- Rochelle Eisenberg, nongovernmental attorney representative;
- Michele McDonald, Esquire, designee of the Attorney General; and
- Susan Dishler Shubin, Esquire, Maryland State Bar Association (MSBA) representative.

### ***Retirement of Chief Administrative Law Judge Thomas E. Dewberry***

On December 1, 2019, Chief Administrative Law Judge (CALJ) Thomas E. Dewberry retired. CALJ Dewberry served as OAH's CALJ for eighteen years, that is, three, six-year terms. The Council appreciates his commitment, dedication and leadership over the years.

### ***Council Activities***

The Council held meetings on October 2, 2019, March 11, 2020 and June 3, 2020. 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.

At the June 3, 2020 meeting, Council members were apprised of OAH's response to the Coronavirus 19 disease (COVID). Under the leadership of Acting CALJ Jana Burch, OAH's Directors and Deputy Directors of Administration, Operations, Quality Assurance, Information Technology, Human Resources and the Chief Clerk identified emergency and non-emergency hearings, cancelled non-emergency hearings that were scheduled and implemented a plan to proceed with remote emergency hospital involuntary admission, forced medication and Motor Vehicle Administration Medical Advisory Board hearings using the Google Meet platform and teleconferencing. They also: coordinated with the Maryland State Department of Education to contact parties with pending requests for mediations/due process hearings; continued to accept and process hearing requests, filing fees and pleadings by mail; continued to issue ALJs' decisions in a timely manner and developed strategies with State agencies and the public to schedule and conduct remote non-emergency hearings as soon as feasible. The Council wishes to commend OAH for ensuring that primary mission critical functions continued to be performed while balancing its mission to provide due process to Maryland's citizens and businesses with the safety of its dedicated workforce.

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<sup>1</sup> Ms. McSherry served on the Council as the nongovernmental attorney representative until April 16, 2019. On May 6, 2019, CALJ Dewberry wrote to Governor Hogan and requested that he re-appoint Ms. McSherry to fill the vacant general public representative. Ms. McSherry continues to attend Council meetings awaiting official re-appointment.

As reported in FY 19, pursuant to the Regulatory, Review and Evaluation Act, OAH is required to review its regulations every eight years. OAH kept the Council apprised of the progress of the development of in-house committees to review and consider changes to OAH's regulations and the public meetings which were held. 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." Council members reviewed and commented on the draft Rules of Procedure prior to submission to the Joint Committee on Administrative, Executive, and Legislative Review (AELR). OAH's Rules of Procedure were finalized in January 2020.

The Council would like to provide the following additional highlights regarding OAH in FY 20:

- Once again, maintained an approximate 99% timeliness rate for issuing written decisions
- The appointment of ALJ Anthony Vittoria to the Circuit Court for Baltimore City
- 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
- Executed new recording software
- Finalized a new security personnel contract for the Hunt Valley headquarters.

ALJ John J. Leidig, Deputy Director of Operations, reviewed legislation that OAH was monitoring during the 2020 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.

In FY 20, ALJ Leidig also reported on the implementation of: Senate Bill 1000/House Bill 1343 – Public Safety – Handgun Permit Review Board – Repeal which abolished the Handgun Permit Review Board and provided that an individual who is denied a handgun permit will now appeal directly to the OAH. This bill requires OAH to schedule and conduct a hearing within 60 days after receipt of a hearing request. OAH must issue a decision 90 days after the conclusion of the hearing; and HB 891 – State Personnel – Grievance Procedures. The resolution of a grievance is a three-step process consisting of 1) initiation of the grievance in writing to the employee's appointing authority or the appointing authority's designee; 2) an appeal to the Secretary's designee; and 3) an appeal to the OAH for a final administrative decision. HB 891 expands the things that can be heard at OAH.

Council members were also updated on the following:

- meetings with agency personnel
- ALJ hiring and training
- staffing changes
- attendance at conferences
- presentations
- public outreach

The Council wishes to emphasize that the attached OAH FY 20 Annual Report provides detailed information on the items highlighted in this Report.