



## **Fiscal Year 2021 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 2021 (FY 21) Annual Report in conjunction with the FY 21 Office of Administrative Hearing (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 21:

- 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;
- April C. Ishak, Esquire, general public representative;
- 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.

### ***New Chief Administrative Law Judge Chung K. Pak***

CALJ Chung K. Pak started at OAH on July 1, 2020. CALJ Pak served as an Administrative Patent Judge at the United States Patent Trial and Appeal Board for over 23 years, where he adjudicated over 6,000 patent cases involving emerging technologies and complex legal issues and wrote over 2,000 opinions eligible for appeal to the U.S. Court of Appeals for the Federal Circuit. He also served as a corporate intellectual property counsel at Union Carbide Corporation and Praxair, Inc., where he provided legal advice and counsel on a wide range of intellectual property issues, including domestic and foreign patent procurement, litigation, trade secrets, antitrust, licensing, and technology transfer issues. CALJ Pak is a proud and longtime Marylander who grew up in Alabama after his family and he immigrated to the United States from South Korea over 50 years ago. He worked his way through and graduated from Auburn University, with a degree in Chemical Engineering, and later Columbus School of Law - The Catholic University of America, where he received his Juris Doctor degree, while working as a Patent Examiner at the U.S. Patent & Trademark Office.

CALJ Pak's vision lies in embracing technology and recruiting outstanding ALJs and dedicated support staff to provide fair and impartial hearings to the people of Maryland who are affected by the actions of many Maryland State agencies in a safe, efficient and timely manner. The accessibility and efficiency of OAH will remain strong as it continues to ensure diligent due process for all Marylanders.

### ***OAH's 30 Year Anniversary Celebration***

On June 14, 2021, OAH celebrated its thirty-year anniversary which was postponed in 2020 due to COVID. Governor Hogan attended this milestone event. Former Delegate Timothy Maloney, who was a sponsor of the bill that created OAH in 1989, provided opening remarks, a historical perspective and introduced Governor Hogan and First Lady Yumi Hogan. Governor Hogan ceremoniously swore CALJ Pak and ten new ALJs into office and former CALJs John W. Hardwicke and Thomas E. Dewberry were honored.

Mr. Maddox provided closing remarks, Senator Susan Lee, Delegate Samuel Rosenberg and Rochelle Eisenberg were also in attendance.



## *Council Activities*

The Council held meetings on October 7, 2020, March 21, 2021 and June 2, 2021. 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 the year, Council members received updates on OAH's continued response to the Coronavirus 19 disease (COVID). Under the leadership of CALJ Pak, OAH's Directors and Deputy Directors of Administration, Operations, Quality Assurance, Information Technology, Human Resources and the Chief Clerk, OAH was able to purchase additional equipment and WebEx licenses to enhance the quality of remote hearings, expand the number of hearings that ALJs conduct remotely at home, purchase additional plexiglass for OAH's Hunt Valley headquarters, hold meetings with local Department of Social Services to develop remote hearing processes for medical and public assistance appeals, and work with the Maryland Institute for Emergency Medical Services Systems to make vaccinations available to OAH employees.

The Council wishes to commend OAH for ensuring that no backlog developed during the COVID crisis while balancing its mission to provide due process to Maryland's citizens and businesses with the safety of its dedicated workforce.

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." In August 2020, OAH's Rules of Procedure were revised to accommodate remote hearings. The revised regulations also allow for hybrid hearings and more flexibility as far as submitting documents. The proposed regulations were sent to Council members for review and comment on August 27, 2020. The regulations were effective as of February 8, 2021.

In addition, on April 13, 2021, Governor Hogan signed SB 14 – Compensation to Individual Erroneously Convicted, Sentenced, and Confined (The Walter Lomax Act) into law. This bill passed the Senate and House unanimously on March 30, 2021. The bill has an effective date of July 1, 2021 and requires OAH and the Board of Public Works (BPW) to promulgate regulations to implement the hearing process. Prior to the Governor signing SB 14, ALJ Denise Shaffer developed an internal workgroup so that OAH was able to hit the ground running when the Governor signed the bill. On April 22 and 30, 2021, OAH's management team met with the BPW's Executive Director and General Counsel and agreed that OAH's Rules of Procedure will apply to these hearings. In a remarkably short period of time, OAH's workgroup, led by ALJ Shaffer, developed emergency regulations outlining the process to permit OAH to begin accepting Requests for Orders of Eligibility and scheduling hearings by July 1, 2021. The proposed regulations were disseminated to stakeholders, and OAH and BPW held a virtual public hearing on May 24<sup>th</sup>. The proposed regulations were then sent to Council members for review and comment on May 28, 2021.

The Council would like to provide the following additional highlights regarding OAH in FY 21:

- Once again, maintained an approximate 99% timeliness rate for issuing written decisions
- Transitioned Motor Vehicle Administration, hospital hearings and other case types to the WebEx platform
- Governor Hogan appointed ALJ Krystin Richardson to the District Court of Maryland for Baltimore County
- Created an off-site disaster recovery location on the cloud
- Developed an E-filing Committee
- Lent technical support to the Maryland Tax Court in publishing emergency regulations
- Worked with the Department of General Services to negotiate a new ten-year lease for the Hunt Valley Administrative Law Building headquarters.

ALJ John J. Leidig, Deputy Director of Operations, reported on legislation that OAH was monitoring during the 2021 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 21, ALJ Leidig also reported on the implementation of the previously reported SB 14 – Compensation to Individual Erroneously Convicted, Sentenced, and Confined (The Walter Lomax Act).

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 21 Annual Report provides detailed information on the items highlighted in this Report.