



Bureau of Administrative Hearings

To Governor JB Pritzker, Honorable Members of the General Assembly, and the People of the State of Illinois
July 2021

Report Purpose and Contents

The Bureau of Administrative Hearings (Bureau), a subdivision of the Department of Central Management Services (CMS), provides centralized coordination and support for administrative hearings functions across the State. The Bureau offers high quality, independent administrative hearings for agencies that do not employ their own administrative law judges (ALJs), providing an impartial forum where Illinoisans receive fair, prompt, and cost-effective resolution of disputes. Implementing Executive Order 04 (2017), the Bureau facilitates professional development for adjudicators, coordinates technology solutions for hearings, promotes uniform hearings rules, coordinates interagency work-share initiatives, and works collaboratively with stakeholders to improve the administration of justice in Illinois.

This annual report is submitted to Governor JB Pritzker, Honorable Members of the General Assembly, and the People of Illinois pursuant to Executive Order 04 (2017). It provides information regarding the State’s centralized hearings operations and ongoing initiatives to advance administrative justice and presents opportunities for anyone passionate about fair access to justice to get involved.

Inside this report, you will find:

Mission, Vision, Core Values	2
Highlights, Fiscal Year 2021.....	2
Background and Bureau Creation	3
Operations Overview, Fiscal Year 2021	4
Combating Implicit Bias	7
Advisory Committee for the Advancement of Administrative Justice	8
Contact the Bureau.....	10

Our Mission, Vision, and Immutable Core Values

Our Mission

To uphold the independence and integrity of the administrative judiciary by promptly resolving administrative disputes involving executive agencies and the public through accessible, fair, and efficient processes, and issuing sound decisions.

Our Vision

To offer the people of Illinois a convenient, simple-to-navigate forum to have their contested case matters heard and decided fairly. To work collaboratively with executive branch agencies, community partners and the public to increase access to administrative justice, reduce confusing and contrary regulatory processes, and inspire the utmost confidence in the adjudicatory process.

Core Values

- ▶ Integrity and Respect
- ▶ Diversity and Inclusivity
- ▶ Impartiality
- ▶ Fairness
- ▶ Innovation and Efficiency
- ▶ Excellence in Service
- ▶ Communication
- ▶ Accountability

Highlights, Fiscal Year 2021

- ▶ Helped to organize training on how to communicate effectively in the virtual hearing, hosted by the National Judicial College, and reaching 443 judges nationwide
- ▶ Fielded 111 new hearings requests from State agencies
- ▶ Participated in a virtual conference of central panel leaders, exchanging best operations practices nationwide
- ▶ Launched Fair Access to Justice Speaker Series with CMS Office of Diversity and Inclusion, an important forum to explore combatting implicit bias and advancing equity
- ▶ Partnered with Chicago Appleseed Center for Fair Courts and Chicago Council of Lawyers to convene an advisory committee of stakeholders dedicated to advancing administrative justice
- ▶ In collaboration with Cook County Department of Administrative Hearings and Illinois Local Government Lawyers Association, designed and presented training curriculum for new municipal hearing officers in Illinois
- ▶ Developed a Language Access Plan and designated a language access coordinator for implementation
- ▶ Developed a voluntary pledge for ALJs, symbolizing commitment to combatting implicit bias and injustices

Background and Bureau Creation

Administrative Adjudication

An administrative hearing is a legal proceeding, held before an impartial factfinder, to review a government agency's action. Each party to the hearing has a right to testify, present and question witnesses, and submit or challenge documents regarding the decision. The neutral factfinder, called an administrative law judge (ALJ), makes findings of fact and conclusions of law and issues a decision which affirms, modifies or sets aside the government agency's action. An individual is more likely to encounter legal process as conducted in an administrative hearing than in a traditional court. Administrative hearings units work much like the courts that handle civil cases but have relaxed rules of procedure regulating how a case moves forward and is heard. This makes it easier for individuals, often not represented by attorneys, to present their case. Administrative courts are less costly for litigants and agencies and, when operating well, ensure all litigants have a fair and accessible process in which disputes can be resolved.

Central Panel Model of Adjudication

More than half of U.S. states, plus several large municipalities, have adopted a "central hearings panel" in which ALJs are employed by the panel, not by the agency whose decision they are reviewing. This model of adjudication seeks to enhance fairness and increase public trust in decisions rendered. As one author noted in the *Journal of the National Association of Administrative Law Judges*:

"However carefully an agency erects a 'wall' between its regulatory staff and administrative law judges, citizens do not know that. If they do know it, they do not believe it. What citizens know is this: they are fighting the agency, and they want a fair hearing. When they enter the hearing room and learn that the judge presiding over the case is an employee of their adversary, no explanation will persuade them, especially if they lose, that the outcome was not predetermined."

John Hardwicke and Thomas E. Ewing, *The Central Panel: A Response to Critics*, 24 *J. National Association Admin. L. Judges*. (2004)

In addition to increasing public confidence in the administrative judiciary, decades of published research reveal that these central panels garner efficiency and increased productivity owing to economies of scale and flexibility in assignments. Agencies that are devoted to the single task of hearing cases are better focused on the needs of performing that function, rather than balancing an agency's many other functions.

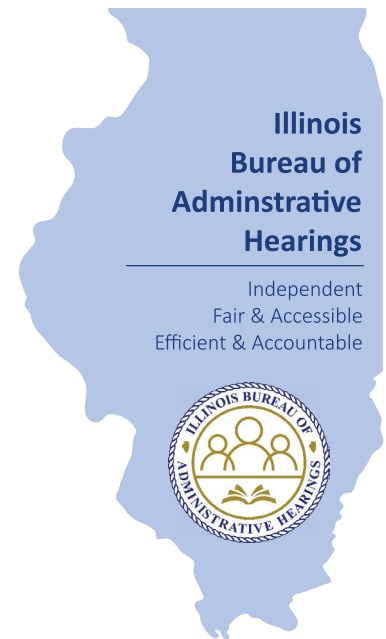
The central panel model is often endorsed by legal practitioners and court reform advocates as essential to procedural fairness. In August 2019, the American Bar Association unanimously adopted Resolution 100A, as proposed by the National Conference of the Administrative Law Judiciary, encouraging state, local and territorial jurisdictions to consider use of a central panel system for state administrative law adjudications.



Illinois Central Panel Creation

Illinois has centralized certain hearings functions through the work of the Bureau. Executive Order 06 (2016) launched a pilot to gather data regarding the State's administrative hearings, compile best practices, and make recommendations for reform. The pilot identified several critical tasks to improve administrative justice, including the adoption of uniform procedural rules, a code of conduct specific to the work of ALJs, centralized training and professional development opportunities for ALJs, and modern e-filing and case management technology. Upon expiration of the pilot in 2017, the Bureau was permanently established and housed within CMS through Executive Order 04 (2017), with instructions to continue its collaboration with State agencies in furtherance of reform. Extensive historical information is available through published reports on the Bureau's website.

In 2017, the Bureau centralized hearings functions for agencies whose caseloads do not justify employing their own ALJs. This move allowed agencies to eliminate costs of contracting with private attorneys to serve as ALJs, ensuring cases are heard by an independent, experienced adjudicator at lower taxpayer cost.



Operations Overview, Fiscal Year 2021

Adjudication Services

The Bureau's adjudication services range from simple administrative appeals to conducting multi-day or multiweek trial-like evidentiary hearings in complex matters. Some cases are narrow, single-issue disputes; others are wide-ranging, and involve complicated legal and factual disputes. ALJs sometimes present recommendations for decision and other times issue the final decision, depending on the authority delegated. Most proceedings are governed by the Illinois Administrative Procedure Act (5 ILCS 100/10/ et seq.) and the relevant statutes and rules of the agency on behalf of which the Bureau is conducting the hearing. All Bureau proceedings are conducted by qualified ALJs who are licensed attorneys.

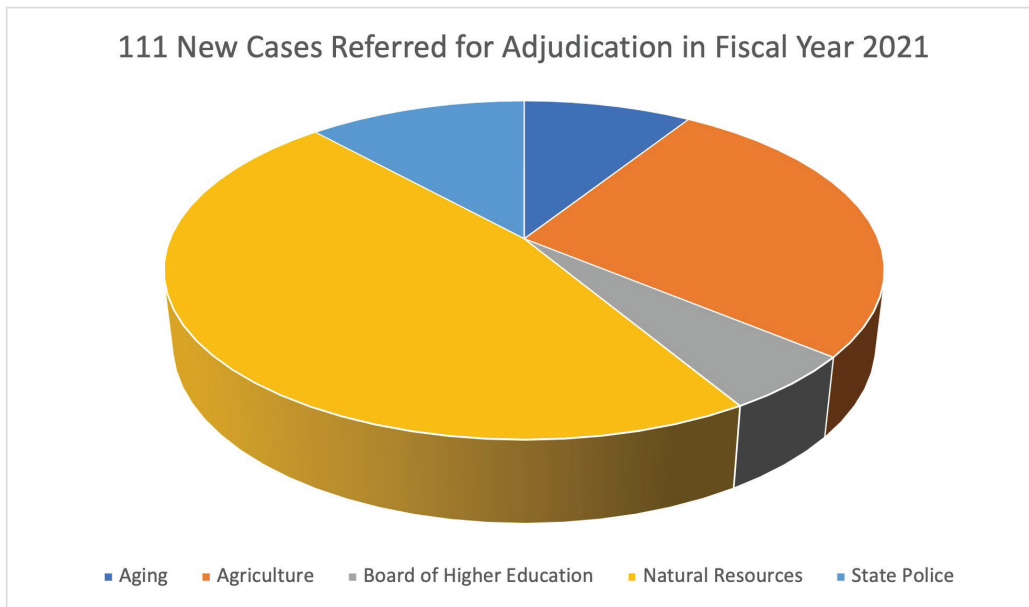
Personnel

The Bureau has two full-time ALJs in Springfield. The unit is overseen by a Deputy Director, in Chicago, who also carries a caseload. The Bureau's ALJs have specialized training in conducting administrative hearings and receive ongoing subject-matter specific training.

Presently, ALJs manage all aspects of their case dockets, including administrative tasks like scheduling, generating hearing notices, service by certified mail, filing, preparing the administrative record, and responding to general inquiries. The Bureau recommends the addition of a dedicated clerk of court to increase customer service, timeframes to case disposition, and unit consistency. Moreover, a clerk would allow ALJs to focus solely on the adjudicative portion of their work, increasing time available to hear cases and issue decisions.

Cases Referred for Adjudication in Fiscal Year 2021

Much of the Bureau's day-to-day workload is externally driven by the number of hearings requests it receives. Such requests, often having time-sensitive procedural requirements, are not always distributed evenly throughout the year. In addition to continuing to process all prior ongoing matters, in Fiscal Year 2021 the Bureau received 111 new matters to docket for hearing. The Bureau expects that requests for hearing will increase in Fiscal Year 2022 as post-pandemic operations at referring agencies move pending investigations and appeals forward.



Mediation Pilot

Mediation is voluntary assisted negotiation that allows parties to agree upon the outcome of a proceeding as opposed to an outcome ordered by the ALJ. It allows the parties to create options that may not otherwise be available remedies the ALJ could grant. Voluntary mediation has been used as an effective tool by sister state central hearings panels, both increasing satisfactory outcomes for litigants and reducing agency strains due to heavy caseloads.

When the parties to a matter pending before the Bureau suggested mediation as a potential avenue for resolution, it was the Bureau's opportunity to pilot mediation. The parties, both represented by counsel, were requested to submit a joint memorandum outlining the issues to be resolved and their expectation for procedures to be applied during the mediation. Thereafter, the Bureau conducted its first mediation, establishing a standard Bureau mediation agreement and voluntary consent of the parties. In preparation for the mediation pilot, the Bureau's Deputy Director enrolled in a mediation skills course with live simulated mediation training that meets required education hours for certified mediators established by the Circuit Court of Cook County. The Bureau looks forward to exploring how voluntary mediation may be expanded in Fiscal Year 2022.

Virtual Hearings

As the global coronavirus pandemic continued to impact litigants' ability to travel and meet in-person, the Bureau worked to find innovative ways of providing access to justice while keeping participants safe.

The Bureau conducted hearings virtually utilizing Cisco WebEx Meetings platform, a product selected by the Department of Innovation and Technology (DoIT) for Statewide videoconferencing. Litigants may connect from anywhere with a smart phone, tablet, or computer. To remove litigant anxiety surrounding use of a new technology, ALJs have begun offering "office hours" to test audio and video and virtual controls.

The Bureau stayed abreast of national and international developments in virtual hearings, joining discussions with colleagues in other jurisdictions. Like the Bureau, jurisdictions across the nation transitioned to virtual platforms to conduct hearings. Regardless of the specific technology platform chosen, ALJs must employ clear communication techniques to ensure effective communications in the virtual environment. The Bureau is honored to have participated in preparing and presenting panel remarks alongside communications experts at an October 2020 training, *Communicating Effectively in the Virtual Hearing*, hosted by the prestigious National Judicial College and attended by 443 judges nationwide.



Electronic Case Management Solution

Building on the work of the Bureau's pilot subcommittee to identify business and technical requirements for effective electronic case management, the Bureau continues its efforts to procure and implement a platform for managing cases, driving numerous operational efficiency and customer-service focused benefits, including:

- reduced processing time through automation of routine functions;
- elimination of costly and cumbersome paper-based processes;
- improved tracking, reporting, and transmission of cases; and
- greater litigant access to case information.

This past year, the Bureau has expanded its work with CMS' data analytics and project management team to identify potential opportunities to harness data, gain greater insight into operations, and incorporate key performance indicators regularly cited by sister state central hearings panels.

Adjudicator-Focused Training

Empowering practitioners with the latest knowledge and best practices is one way to ensure fair and efficient administration of justice in our State. A survey conducted during the Bureau's early pilot period revealed a desire for adjudicator-specific training. The Bureau began organizing meaningful professional development opportunities, and since 2017, has facilitated more than 4,000 person-hours of adjudicator-focused education at no charge to participants.

This year, the Bureau was honored to participate in preparing and presenting panel remarks alongside communications experts at a training, *Communicating Effectively in the Virtual Hearing*, hosted by the prestigious National Judicial College. This virtual training reached 443 judges nationwide.

Additionally, the Bureau was invited to help plan and present curriculum at a two-day virtual training on administrative adjudication for new municipal hearing officers. Sponsored by the Illinois Local Government Lawyers Association and the Cook County Department of Administrative Hearings, this training is designed to meet statutorily mandated training standards and equips new hearing officers with tools needed to adjudicate municipal violations.

Sharing Best Practices at Central Panel Conference

The Bureau regularly communicates with leaders from the nation's 30+ central panels, to share experiences, best practices, and challenges. Development of these relationships has allowed the Bureau to benefit from the operational advice of longstanding central panels in sister state jurisdictions as it develops programs and initiatives for implementation in Illinois. In September 2020, the Bureau's Deputy Director participated in a virtual Central Panel Directors Conference, a dedicated forum to share state annual operational reports and exchange ideas.

Combatting Implicit Bias

Every individual holds deep-seated biases of which they are often completely unaware. These hidden attitudes — known as implicit or unconscious bias — influence the way we act toward one another. Even those with the best intentions can be influenced by these implicit biases, behaving in ways that have the potential to create disparities in decision-making. Since its inception, the Bureau has recognized this challenge and has organized trainings to raise awareness surrounding implicit bias. To ensure these important discussions are at the core of our daily interactions, the Bureau partnered with CMS Office of Diversity and Inclusion to create a space for reflection and conversation — the Fair Access to Justice Speaker Series.



Fair Access to Justice Speaker Series

In collaboration with CMS' Office of Diversity and Inclusion, the Bureau launched the Fair Access to Justice Speaker Series, where highly regarded experts in this space join the conversation, providing additional perspective and discussion. The Fair Access to Justice Speaker Series brings important conversations about racism, implicit bias and justice to the forefront, sparking rich dialogue to empower change. An open and interactive dialogue is meant to spur solutions helpful to participants as they work to combat their own implicit biases and ensure equitable treatment for all people.

The series kickoff featured the Director of the Racial Justice Institute and Network at the Shriver Center on Poverty Law who spoke about what it means to be a race equity advocate, highlighting the inequities that permeate areas such as courts, education, healthcare, and housing. Additional sessions featured experts that shared their experiences working in higher education and procurement.

Adjudicator Pledge

In addition to encouraging open and interactive dialogue, the Bureau has drafted a voluntary pledge for ALJs to serve as a reminder of the tremendous responsibility to ensure a fair, impartial forum for all litigants, and as an affirmative commitment to combatting implicit bias and injustices.

Advisory Committee for the Advancement of Administrative Justice

Stakeholder Feedback to Increase Fairness

In research conducted by Chicago Appleseed Center for Fair Courts ("Chicago Appleseed") and Chicago Council of Lawyers in February of 2019, *The Need for a Central Panel Approach to Administrative Adjudication: Pros, Cons, and Selected Practices*, an advisory committee was cited as an important part of making centralized hearings panels as effective as possible:

"Creating an advisory council to give direction, policy counsel, and advice on the adoption of rules established by the central panel may be another way to increase fairness."

Established central panel jurisdictions, including Maryland and North Carolina, successfully operate advisory bodies that provide direction on matters relating to administrative hearings, the administrative process, and policies and regulations proposed by the central panel.

Partnership to Convene an Advisory Committee

Chicago Appleseed and Chicago Council of Lawyers have partnered with the Bureau to convene an advisory committee in Illinois - the Advisory Committee for the Advancement of Administrative Justice. Committee participants will help the Bureau identify ways in which to make Illinois administrative hearings as fair, effective, and efficient as possible.

Chicago Appleseed is a volunteer-led, collaborative non-profit organization advocating for fair, accessible, and anti-racist courts in Chicago, Cook County, and across the State of Illinois. Chicago Council of Lawyers is a public interest bar association focused on aiding poor and disadvantaged populations who often have unequal access to the justice system. For more than two decades, these organizations have worked side-by-side to bring fairness and effectiveness to courts. The Bureau is thrilled for this opportunity to work alongside such dedicated thought leaders to strengthen important access to justice initiatives.

Committee Structure

The Committee will operate through subcommittees in five key areas, which will meet monthly to establish priority goals and action plans to present to the full Committee. Subcommittees are anticipated to begin meeting in August/September 2021.

Identified Subcommittees	Focus Issues
1. Adjudicator Selection and Training	Organize centralized, adjudicator-specific training to include implicit bias and writing plain language decisions to self-represented litigants.
2. Uniform Procedural Rules	Promote centralized and consistent use of procedural and evidentiary hearing rules.
3. Hearings Technology	Encourage website development, data collection and analysis, e-filing, and development and implementation of litigant surveys.
4. Plain Language	Provide for litigant forms written without legalese.
5. Pro Bono Assistance	Increase use of pro bono assistance, including advocating for an Illinois Supreme Court rule to award continuing legal education credit for mentored pro bono work, and working with law schools for pro bono clinics and assistance.

The full Advisory Committee will meet every other month to review the work of the subcommittees. The full Advisory Committee may adopt suggestions of the subcommittees and work with the subcommittees to develop and implement advocacy strategies. The full Advisory Committee may issue recommendations to Illinois’ central panel leadership. “On call” pro bono academic researchers will provide quantitative and qualitative research to assist the Committee in making recommendations.

The Bureau extends a special thank you to the Honorable Julian Mann, Chief Administrative Law Judge of North Carolina’s Office of Administrative Hearings, for kindly lending his time and expertise during initial planning sessions to establish the Committee’s structure and focus areas.





Participate on a Subcommittee

You can help improve access to justice by serving on an advisory subcommittee. Involvement may include attending monthly meetings, conducting research, and aiding the subcommittee in the development of strategic goals and action plans.

Contact AdministrativeHearings@illinois.gov to learn more.

Interested in Participating?

Identified subcommittee goals align closely with the charge of the Bureau as set forth in Executive Order 04 (2017). Subcommittee volunteers will bring collective expertise to further drive meaningful change and will greatly expand the Bureau's capacity to tackle larger initiatives. Additionally, external stakeholder participation will enhance oversight of State action, thereby promoting public confidence in the administrative judiciary.



Contact the Bureau

Meaningful reform happens when we act together.

The Bureau invites you to share your ideas for advancing administrative justice.



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