



ADVANCING ADMINISTRATIVE HEARINGS IN ILLINOIS

Bureau of Administrative
Hearings Annual Report

Fiscal Year 2023



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

The Illinois Bureau of Administrative Hearings (Bureau), housed within the Illinois Department of Central Management Services (CMS), presents this annual report pursuant to Executive Order 04 (2017). It provides information regarding the Bureau's centralized hearings operations during Fiscal Year 2023, describes ongoing initiatives to advance administrative justice, and recommends actions that will further improve Illinois' delivery of administrative hearings services.

To that end, please find included the following Contents:

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ABOUT THE BUREAU OF ADMINISTRATIVE HEARINGS

The Bureau 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.

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.

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



Impartiality



Fairness



Plain Language
Communication



Innovation and Efficiency



Excellence in Service



Accountability

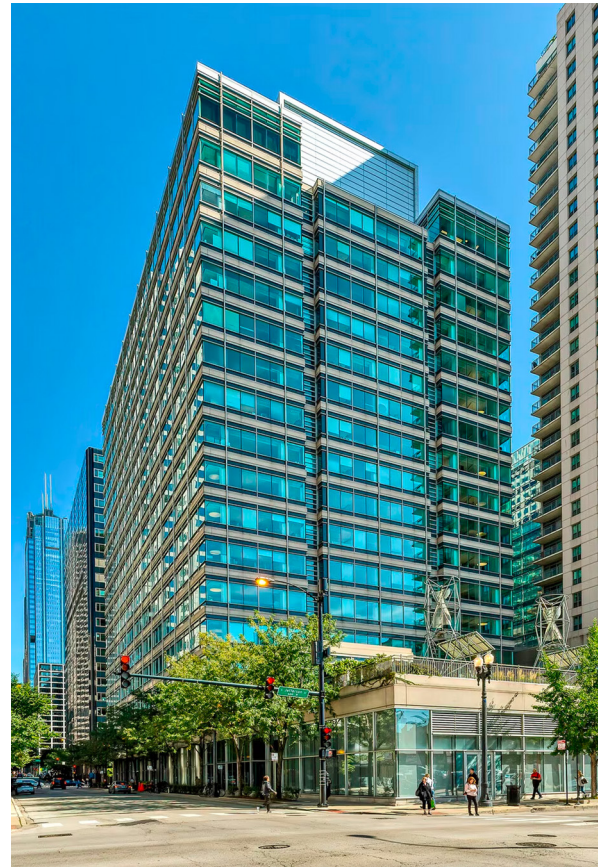


Diversity and Inclusivity

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HISTORY AND CONTEXT

ADMINISTRATIVE HEARINGS, GENERALLY

An administrative hearing is a binding legal proceeding, held before an impartial fact finder, 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 fact finder, called an administrative law judge (ALJ) makes findings of fact, conclusions of law, and issues a recommended or final decision which affirms, modifies, or sets aside the government agency's action.

THE CENTRAL PANEL MODEL OF ADJUDICATION

More than thirty jurisdictions across the nation have adopted a "central hearings panel" model of administrative adjudication in which ALJs are employed by the panel, not by the agency whose decision they are reviewing. This model seeks to enhance fairness and increase public trust and confidence 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)

The central panel model is often endorsed by legal practitioners and court reform advocates as essential to procedural fairness. And, 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 adjudication.

EVOLUTION OF ILLINOIS' CENTRAL PANEL

Executive Order 06 (2016) launched a one-year pilot to gather qualitative and quantitative data regarding the State's administrative hearings, compile best practices, and make recommendations for reform. The concept of an Illinois central panel had on several occasions over the past two decades, been proposed in the form of legislation. While published research on central panels around the nation revealed that these central panels garner efficiency and increased productivity owing to economies of scale and flexibility in assignments, decisionmakers lacked qualitative and quantitative research demonstrating how the central panel model might thrive in Illinois' own unique environment.

The pilot identified several critical tasks to improve administrative justice in our state, 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 an expanded number of State agencies in furtherance of reform. Extensive historical information is available through published reports on the Bureau's website.

In May of 2017, the Bureau hired its first ALJ and began conducting hearings for agencies whose individual caseloads did not justify employing their own ALJs. The Bureau's direct provision of adjudicative services, independent of the state agencies referring the matters for hearing, marked the state's operational shift to the central panel model of adjudication for certain types of cases. 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. Demand for the Bureau's adjudicative services soon necessitated the hiring of a second dedicated ALJ in November 2018. The Bureau's caseload is externally driven, dependent upon needs of the litigants involved. To date, the Bureau has served or stands ready to serve nine Illinois agencies, spanning more than 50 diverse case types.

ENGAGING STAKEHOLDERS TO ADVANCE ADMINISTRATIVE JUSTICE

As created, the Bureau's structure is a novel approach in the use of a central panel to guide coordination of Statewide reform across the dozens of administrative agencies that conduct hearings. Since its inception, the Bureau has built and continues to grow partnerships with both internal and external stakeholders to effectuate largescale improvement efforts.

Partnering with Chicago Appleseed Center for Fair Courts and Chicago Council of Lawyers, the Bureau mobilized a stakeholder committee dedicated to advancing administrative justice, ensuring robust feedback, enhanced transparency of hearing reform efforts, and increased capacity to tackle initiatives. Engaging stakeholders in hearing reform efforts allows the Bureau to leverage the talent of pro bono researchers and experts to collaboratively improve administrative justice in Illinois. Most recently, the Bureau was able to leverage the committee's expertise to reimagine the Bureau's model procedural rules, accounting for technological advances that have changed the ways in which Illinois residents and businesses now interact with government agencies. Participants interested in joining these efforts are encouraged to contact the Bureau to become involved.

FISCAL YEAR 2023 ADJUDICATIVE OPERATIONS

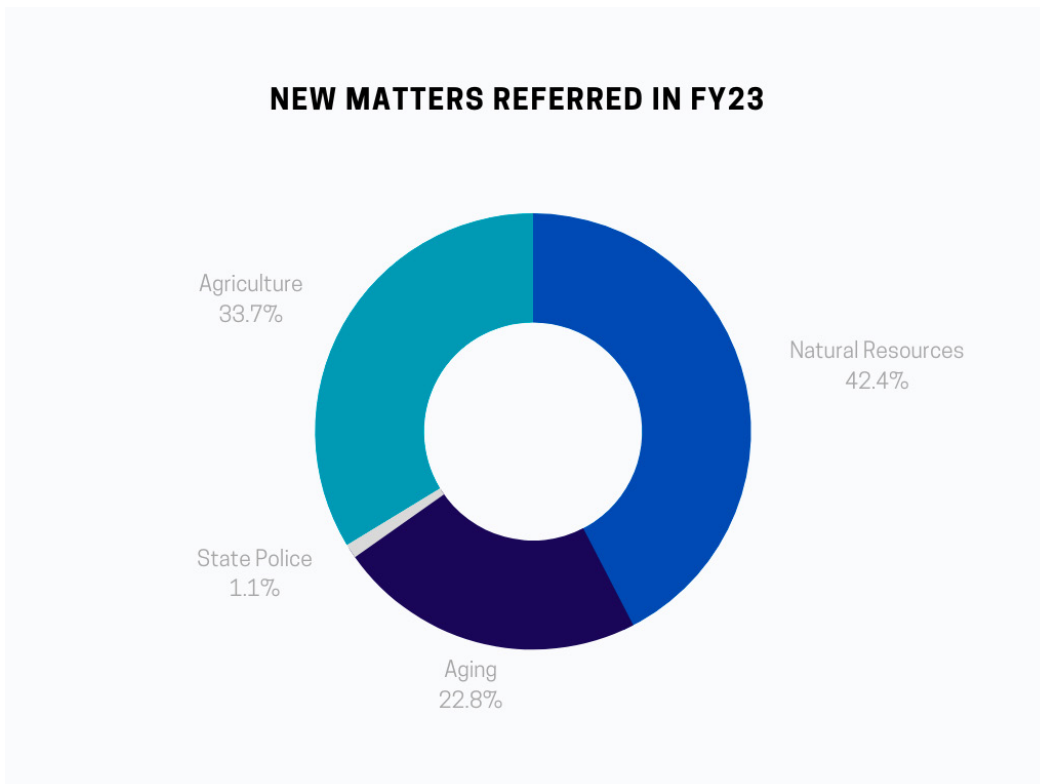
ADJUDICATIVE SERVICES, GENERALLY

All hearings proceedings are conducted by qualified ALJs who are Illinois-licensed attorneys with significant legal experience. Currently, the Bureau has two full-time administrative law judges, overseen by a Deputy Director who also carries a caseload.

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 involve multiple 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 regulatory authority under which the Bureau is conducting the hearing.

FISCAL YEAR 2023 NEW MATTERS REFERRED FOR ADMINISTRATIVE HEARING

In Fiscal Year 2023, the Bureau received 91 new referrals for administrative hearing. New matters spanned dozens of hearings types from four referring agencies, across diverse, wide-ranging subjects.



The decrease in new referrals from Fiscal Year 2022 (103) to Fiscal Year 2023 (91) is an anticipated temporary decrease attributable to multiple factors. First, jurisdictional changes impacting referring agencies have both contracted and expanded the work of the Bureau in Fiscal Year 2023. For instance, Public Act 102-237 created a Firearm Owners Identification (FOID) Card Review Board which mandates that certain FOID appeals now be filed with the Review Board rather than the Director of State Police. As the Bureau's FOID appeals caseload tapered, the Bureau began providing expanded services to the Department on Aging, hearing appeals of contract determinations under Older Americans Act programs. Case fluctuations due to structural changes, like those cited, are not uncommon to central panels across the nation. Second, hearings needs are not always distributed evenly throughout the fiscal year. The Bureau's active caseload, or the total number of open cases, is a larger category than any fiscal year's new matter intake as it captures both cases referred toward the end of the prior fiscal year and more complex cases which may not have resolved within the prior fiscal year. Lastly, the demand for hearings services is externally driven by actions of referring agencies, stemming from their enforcement or regulation of permissive commercial activity, with the hearing stage occurring in the months following the agency's action. Decreased referrals is largely reflective of delayed enforcement and commercial activity stemming from the novel coronavirus pandemic. Normalization of enforcement activity is expected to yield additional cases for hearing, including potentially a backlog from the pandemic period.

Notably, a decrease in new referrals has not equated to less time spent on account of complexity of individual matters. The Bureau's ALJs have engaged in greater prehearing practice; extensive discovery and motion practice with briefings, oral arguments, and orders on motions; and mediation, often with ongoing monitoring of settlement agreements. These case events are not reflected in the current metric which measures only the raw number of cases referred in a fiscal year. The Bureau is working toward establishing more meaningful metrics to capture these differences in case events and complexity, leveraging CMS' Data Analytics team expertise.

ORGANIZATIONAL SUPPORT AND CAPACITY BUILDING

During Fiscal Year 2023, the Bureau employed two full-time ALJs and a Deputy Director, housed within CMS, to drive the Bureau's day-to-day operations of conducting fair hearings and issuing quality decisions. In April 2023, the Bureau onboarded its first administrative assistant to provide organizational support for the Bureau's activities, increase customer service, and decrease timeframes to case disposition. A passionate public servant, the Bureau's administrative assistant is quickly learning the Bureau's operations and providing valuable input for continuous improvement. This much-needed support has allowed the Bureau's ALJs to focus solely on the adjudicative portion of their work, increasing time available to hear cases and issue quality written decisions.

Additionally, the Bureau continues to explore innovative and cost-effective ways to meet future demand for administrative hearings services. Flexibility of assignment to a pool of highly trained ALJs is a hallmark of central panel efficiency nationwide. As the Bureau has only two full-time ALJs, unanticipated spikes in new case referrals or expedited hearings requests can present operational challenges to meeting desired disposition timeframes. Partnering with the Legal Services Division of CMS, the Bureau began cross training a voluntary reserve pool of talented experienced CMS attorneys as ALJs. Fully mobilized, this plan will ensure the Bureau can responsibly meet the needs of litigants and customer agencies, without added cost. Moreover, CMS attorneys will gain valuable professional development opportunities. This is one of the many ways the Bureau benefits from being part of CMS, an experienced provider of services to Illinois agencies.

DEDICATED HEARING ROOM SPACE

In Fiscal Year 2023, the Bureau expanded its Springfield location, subsuming vacant adjacent offices and converting to dedicated hearing rooms. Previously, the Bureau utilized shared conference rooms for in-person hearings which presents less flexibility for scheduling and often requires rearranging of furniture to be conducive for hearings activities. Moreover, the creation of dedicated hearing space delineates separation between the Bureau and referring agencies, further reinforcing the neutrality of proceedings.

SECURE E-FILING AND ELECTRONIC CASE MANAGEMENT SYSTEM

Acquiring an effective electronic case management and e-filing system will improve tracking, reporting, and transmission of cases; enhance security of information; and transform litigants' access to information about their cases, making it easier for them to assert their rights. A fully implemented system is expected to bring savings through the elimination of cumbersome paper-based processes and the tedious hours spent supporting them, including an estimated 50% reduction in time spent on calls, emails, and faxes; 45% reduction in first class mailings; 55% reduction in time spent scheduling; 70% reduction in time spent creating the administrative review record and 55% reduction in time spent creating reports.

In its search for a cost-effective solution, the Bureau identified a product dedicated to justice agencies. With the product having been designed specifically for adjudication processes, and in use by other central panels across the nation, the Bureau can leverage decades of various government agency experiences to identify efficiencies within its own business processes. The Bureau seeks to utilize the NASPO Cooperative to purchase this software through a value-added reseller. In utilizing this Cooperative, the State benefits from economy of scale, receiving bulk discounted pricing from vendors that previously submitted bids through a competitive process.

ROBUST TRAINING TO PROMOTE FAIR AND EFFICIENT HEARINGS

ADJUDICATOR-FOCUSED EDUCATION AND TRAINING

Promoting the fair and efficient administration of justice by equipping ALJs with the latest knowledge and best practices is a cornerstone of the Bureau's mission. Since its inception in 2017, the Bureau has facilitated nearly 5,000 person-hours of adjudicator-focused training. The Bureau has continued its mission of facilitating training on timely and relevant topics specific to the work of impartial adjudicator in Fiscal Year 2023. At the municipal level, the Bureau was again invited to help plan and present curriculum on administrative adjudication for new municipal hearing officers to fulfill their statutory training requirements. Courses led by the Bureau included substantive and procedural due process, evidence in administrative hearings, and effectively communicating with litigants.

At the national level, the Bureau participated for its first time in the National Association of Hearing Officials (NAHO) annual conference hosted this year in Chicago. A forum for the discussion of administrative law cases across the country, NAHO's conference provided a unique opportunity for the Bureau's ALJs to exchange ideas with ALJs and hearing officials from coast to coast. NAHO sessions included current issues in administrative law, ethics, interrupting and reducing implicit bias, decision writing, evidence law and more. The Bureau even took part in facilitating sessions at the conference, including Best Practices for Conducting a Meaningful Virtual Hearing, and Leadership for Judges.

Further, the location, scope, and timing of the NAHO conference presented an excellent opportunity to kick off a CMS cross-training initiative in which experienced attorneys in CMS' Legal Division trained as a reserve pool of dedicated ALJs, helping the Bureau to responsibly meet the needs of litigants and customer agencies, without added staffing costs,



and providing CMS attorneys opportunities to flex different skillsets.

The Bureau also participated in the Central Panel Directors Conference in neighboring Indiana, providing a valuable forum for central panel states to share information and gain different perspectives on the issues and challenges that they face. This year's conference provided educational presentations by legal scholars, including a keynote on Access to Justice by an Indiana Supreme Court Justice.

INVESTIGATIVE SKILLS TRAINING COURSE

Recognizing the benefits of skills training at all stages of the adjudication process, the Bureau has coordinated with legal investigations experts to facilitate the launch of a formal training module designed specifically for agency investigators, thereby enhancing due process for Illinoisians and increasing the quality of investigative evidence presented at hearing. This skills training course will follow a hybrid curriculum of on-demand training paired with live interactive sessions, making it accessible to investigators Statewide. The Bureau continues to facilitate pre-recording of materials to launch on the State's OneNet learning platform in Fiscal Year 2024.

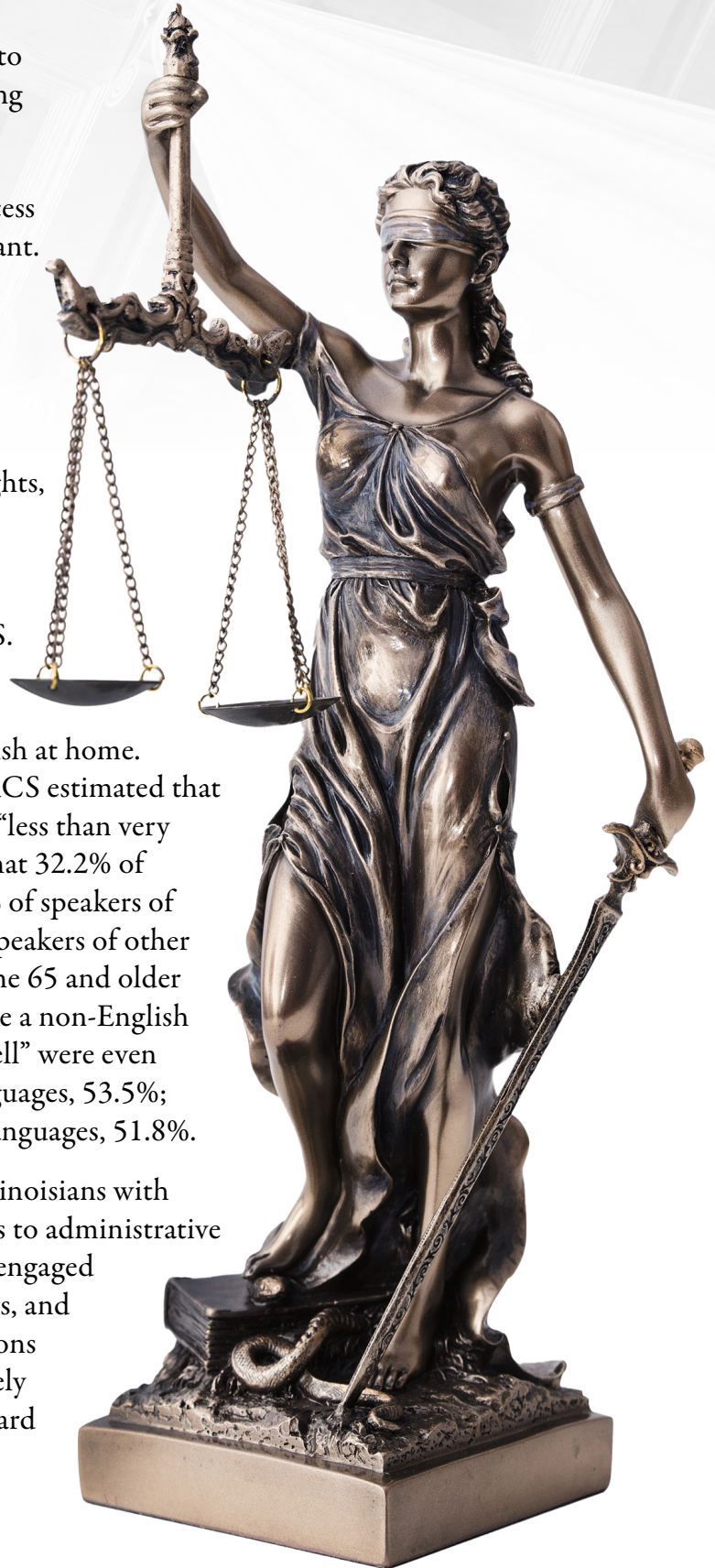
ADVANCING ADMINISTRATIVE JUSTICE

The Bureau strives to make it easier for Illinoisans to interact with the State in a meaningful way, working collaboratively across executive branch agencies to remove barriers to justice. In Fiscal Year 2023, the Bureau focused its efforts on effective language access and meeting the needs of the self-represented litigant.

ENSURING EFFECTIVE LANGUAGE ACCESS

Administrative hearing proceedings impact the rights, duties, and privileges of participants. Essential to a fair outcome is the opportunity for meaningful participation, including the removal of language access barriers. According to estimations of the U.S. Census Bureau's American Community Survey (ACS), in 2020 23% of Illinois's population, aged 5 and over, spoke a language other than English at home. Of those individuals, in the 18-64 age range, the ACS estimated that 41.1% of Spanish-speaking persons spoke English "less than very well." In this same age range, the ACS estimated that 32.2% of speakers of other Indo-European languages, 38.5% of speakers of Asian and Pacific Island languages, and 32.2% of speakers of other languages spoke English "less than very well." In the 65 and older age range, the estimates of those persons who spoke a non-English language and who spoke English "less than very well" were even higher: Spanish, 67.3%; other Indo-European languages, 53.5%; Asian and Pacific Island languages, 62.6%; other languages, 51.8%.

This data highlights the importance of ensuring Illinoisians with limited English proficiency have meaningful access to administrative hearings services. In Fiscal Year 2023, the Bureau engaged State agencies that conduct administrative hearings, and key stakeholders, in a series of working group sessions to determine how we can continue to collaboratively expand access to resources. The Bureau looks forward to continuing these efforts into the future.



MEETING THE NEEDS OF THE SELF-REPRESENTED LITIGANT

For many litigants, their appearance in an administrative proceeding is their first time appearing in a legal forum. Often, litigants are self-represented, meaning that they are navigating the administrative hearing process without an attorney advocate. To be effective, administrative law reform must consider the perspective of the self-represented litigant.

Complementing the Bureau's longstanding efforts to establish user-friendly, plain language rules of procedure, accessible self-help materials for litigants, and effective resources for ALJs to assist self-represented litigants navigate proceedings, the Bureau is proud to have launched its first Access to Justice internship opportunity, welcoming its first intern via the Michael Curry Summer Internship Program. In just a few short months, the Bureau's intern has provided valuable research assistance that will yield innumerable benefits to the self-represented litigant.

First, a redesign of the Bureau's website will better present information to litigants searching for information about their case. The site redesign, complete with short informational videos, will soon launch in Fiscal Year 2024. Second, the Bureau's intern has developed a survey instrument for ALJs Statewide to better ascertain, from the ALJ's perspective, desired training. Self-represented litigants can present special challenges for ALJs who must balance informing litigants of their rights yet refrain from crossing the line toward advocacy. Third, the intern will engage willing adjudicators in a more in-depth focus group dedicated to addressing present challenges and identifying additional resources to assist self-represented litigants.

RECOMMENDATIONS FOR FUTURE REFORM

Executive Order 04 (2017) tasks the Bureau with providing, annually, its recommendations for reform, including where administrative hearings may be made more efficient and user-friendly. In addition to expanding upon the improvement initiatives described elsewhere in this report, the Bureau recommends the following additional steps to reduce barriers to access, streamline timeframes to case resolution, and promote public trust and confidence in process and outcomes.

UNIFORMITY IN PROCEDURAL RULES

Uniform, user-friendly procedural rules across all State agencies that conduct administrative hearings would cut hundreds of rules from the Illinois Administrative Code, streamline existing hearing processes, protect due process, and eliminate confusing and contrary regulatory processes between agencies and hearings units, making it easier for self-represented litigants to understand and assert their rights at hearing. Codification of rules for all types of hearings should appear in one section of the Illinois Administrative Code, making it easier for individuals and entities to identify and understand applicable rules of hearing practice.

Enhancing consistency and predictability in this manner will boost public confidence in the State's process. With the assistance of an advisory committee composed of internal and external stakeholders, the Bureau is poised to assist agencies Statewide in this undertaking, which will require the repeal and adoption of administrative rules by each individual agency. Broad agency support, therefore, is critical to this endeavor.

Also critical is the Bureau's ability to enact its own procedural rules governing the conduct of hearings within its purview. The task of navigating conflicting procedural rules is magnified as the Bureau conducts hearings for multiple agencies, each with its own procedures, and sometimes multiple sets of procedures. This makes it difficult to develop consistency in operation and utilize standard forms for routine orders. Continued coordination must remain a priority.

CERTIFICATION FOR ADMINISTRATIVE LAW JUDGES

The Bureau is working toward certification of its administrative law judges through the National Association of Hearing Officials (NAHO), and recommends this approach be considered by agencies Statewide.

NAHO is the only organization that has a certification program for ALJs and Hearing Officers. NAHO has developed a core curriculum that exemplifies excellence in training in core skills, essential knowledge, and ethical conduct that distinguish the highest caliber professionals in the field. NAHO does not require that all the training be obtained through its own courses. Rather, a candidate for certification may complete an application and provide documentation that satisfies standards. Prior National Judicial College training, Bureau-sponsored training, and relevant state and local bar association trainings may fulfill requirements.

EXPANDED ADOPTION OF THE ADJUDICATOR CODE OF CONDUCT

Currently, ALJs in our State are not subject to a single uniform code of conduct. Like all State employees, their conduct is subject to mandates of the Illinois Governmental Ethics Act, the State Officials and Employees Ethics Act, the State of Illinois Code of Personal Conduct created pursuant to Executive Order 2016-04, and any agency-specific personnel rules. However, these laws do not address the unique ethical dilemmas that confront ALJs. The Bureau previously developed and implemented a Code of Conduct for its ALJs which closely tracks national model codes and seeks to provide guidance to assist ALJs in maintaining high standards of judicial and personal conduct as they hear and decide cases on important public matters. Statewide adoption of this Code of Conduct by individual agencies would not only provide all Illinois ALJs a valuable tool, but also strengthen the public's faith in agency decisions and the hearings process as a whole.

Meaningful reform happens when we act together.
The Bureau invites you to share your ideas for
advancing administrative justice.

Contact Us

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