

GENERAL QUESTIONS

- 1. Please provide the agency's mission statement.** The mission statement is provided in statute: Under D.C. Official Code § 2-1831.17(e), the Advisory Committee shall
- (1) Advise the Chief Administrative Law Judge in carrying out his or her duties;
 - (2) Identify issues of importance to Administrative Law Judges and agencies that should be addressed by the Office;
 - (3) Review issues and problems relating to administrative adjudication;
 - (4) Review and comment on the policies and regulations proposed by the Chief Administrative Law Judge; and
 - (5) Make recommendations for statutory and regulatory changes that are consistent with advancing the purposes of this chapter.

2. Please list all reporting requirements in the District of Columbia Code or Municipal Regulations that the agency is required to complete in FY 20 and FY 21, to date. For each requirement, please list the date the report was required and the date it was produced. If the agency did not produce the report on the mandated timeline, please explain why.

There are no mandatory reports for the Advisory Committee. The Open Meetings Act requires posting of minutes or recordings of Committee meetings.

3. What are the agency's top five priorities? Please explain how the agency expects to address these priorities in FY 21.

While no "top five" list has been developed by the Committee as a whole, key priorities discussed at various meetings and worked on by the Committee or its members include:

- a. Providing advice to the OAH on key topics of building and sustaining a central panel of talented judges who administer justice fairly, transparently, and expeditiously
- b. Supporting the new Chief Judge in a way that is most useful to her
- c. Making sure that there is good communication from agencies to the OAH about any systematic issues they run into with OAH
- d. Learning from OAH about risks to the government revealed through key cases, or cases of a type that arise repeatedly where the government needs to address a problem, and providing that information to the relevant agencies for resolution
- e. Improving transparency to the public, and government agencies about important rulings of OAH
- f. Making sure the technology available to OAH facilitates electronic filings and that interested persons can be made aware of proceedings electronically, easily, while not excluding the many pro se persons who may lack access to an electronic filing system, and
- g. Recovering from the pandemic in a way that improves access to justice and makes participation in cases at OAH easier for all.

The OAH Advisory Board and its individual members will continue to take actions pursuant to these goals.

4. Please describe any new initiatives or programs that the agency implemented in FY 20 and FY 21, to date, to improve the operations of the agency. Please describe any funding utilized for these initiative or program and the results, or expected results, of each initiative.

1. The OAH Advisory Committee began on-line meetings during the pandemic; no incremental funds were necessary.
2. The Chair of the Advisory Committee was involved in the interview process for the new Chief Administrative Law Judge when former Chief Judge Adams assumed the directorship of the Mayor's Office of Legal Counsel (MOLC). No incremental funds were necessary.
3. As a new Chief Administrative Law Judge was appointed, regular discussions between Chief Judge Currie and the Chair of the Advisory Committee commenced. No incremental funds were necessary.
4. With the launch of the Universal Paid Leave program, the Chair and the Chief worked together, with the Director of the Department of Employment Services and the Budget and Performance office, to make sure that funding for the necessary new Administrative judges was used efficiently. No costs are attributed to the Advisory Committee; the cost for judges for resolution of UPL was initially borne by DOES and remitted to OAH.
5. The Advisory Committee hosted agency counsels to speak at a Committee meeting, with judges in attendance, to surface issues. No incremental funds were necessary.
6. While not a new initiative, Administrative Law Judges (ALJs) are given an opportunity to work with the OAH Advisory Committee to discuss any pressing concerns and support efforts needed to assist in the management of OAH business. During the COVID-19 public health emergency, ensuring all ALJs were supported was of paramount importance to the Committee and Chief Judge. No incremental funds were necessary.

5. Please list all pending lawsuits that name the agency as a party. Identify which cases on the list are lawsuits that potentially expose the District to financial liability or will result in a change in agency practices and describe the current status of the litigation. Please provide the extent of each claim, regardless of its likelihood of success.

There are no lawsuits against the OAH Advisory Committee.

6. Please list all settlements entered into by the agency or by the District on behalf of the agency in FY 20 or FY 21, to date, and provide the parties' names, the amount of the settlement, and if related to litigation, the case name and a brief description of the case. If unrelated to litigation, please describe the underlying issue or reason for the settlement (e.g. administrative complaint, etc.).

The OAH Advisory Committee was not involved in the settlement of any lawsuits in FY 20 or 21 to date.

7. Please provide the number of FOIA requests for FY 20, and FY 21, to date, that were submitted to your agency. Include the number granted, partially granted, denied and pending. In addition, please provide the average response time, the estimate number of FTEs required to process requests, the estimated number of hours spend responding to these requests, and the cost of compliance.

The OAH Advisory Committee has received no FOIA requests for FY 20 or FY 21 to date.

8. Please list and describe any ongoing investigations, audits, or reports on the agency or any employee of the agency that were completed during FY 20 and FY 21, to date.

The OAH Advisory Committee is not the subject of any ongoing investigation, audit, or report or any such investigation, audit, or report completed in FY 20 or FY 21 to date.

9. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared or funded during FY 20 and FY 21, to date. Please submit a hard copy to the Committee of any study, research paper, report, or analysis that is complete.

The OAH Advisory Committee did not fund any study, research paper, report, or analysis in FY 20 or FY 21 to date.

10. Please provide a list of all current members of the Committee. Please include the following: Their date of appointment or designation;

- Betsy Cavendish, Chair, Mayor's Office of the General Counsel (MOGC), 4-24-15
- Toni Jackson, Office of Attorney General (OAG), 7-13-15
- Jed Ross, Office of Risk Management (ORM), 10-4-19
- Ernest Chrappah, Dept. of Consumer and Regulatory Affairs (DCRA), 10-4-19
- Mary Buckley, Public Member, 1-2-19 (Reappointment)
- Chelsea Sharon, Legal Aid DC/Council Designee, 10-7-18
- Alice Thomas, Howard University Law/Public Member, 1-2-19 (Reappointment)
- Paul Wolfson, Wilmer Hale/Public Member, 1-2-19 (Reappointment)

a. The Ward in which they reside;

Betsy Cavendish (MOGC) – Ward 4

Toni Jackson (OAG) – Ward 7

Jed Ross (ORM) – Ward 2

Ernest Chrappah (DCRA) – Ward 3

Mary Buckley, Public Member – Ward 8

Chelsea Sharon, Legal Aid DC/Council Appointee – Ward 3

Alice Thomas, Howard University Law/Public Member – Ward 4

Paul Wolfson, Wilmer Hale/Public Member – Ward 2

b. Their agency, if applicable;

Betsy Cavendish, Chair, Executive Office of the Mayor, Office of the General Counsel (MOGC)
Toni Jackson, Office of the Attorney General, (OAG)
Jed Ross, Office of Risk Management (ORM)
Ernest Chrappah, DC Regulatory Affairs (DCRA)
Mary Buckley, Public Member
Chelsea Sharon, Legal Aid DC
Alice Thomas, Howard University Law
Paul Wolfson, Wilmer Hale

c. The number of meetings attended in FY 20 and FY 21, to date; and

Meeting Attendance FY20

Betsy Cavendish (OGC) – 3 meetings, 10-24-19; 12-12-19; 9-17-20
Toni Jackson (OAG), 3 meetings – 10-24-19, 12-12-19 and 9-17-20
Jed Ross (ORM), 2 meetings – 10-24-19 and 9-17-20
Michael Krainak (ORM) – 1 meeting for Jed Ross, 12-12-2019
Ernest Chrappah (DCRA) – 1 meeting, 9-17-20
Mary Buckley (Public Member) – 3 meetings, 10-24-19, 12-12-19, and 9-17-20
Chelsea Sharon (Legal Aid DC) – 2 meetings, 10-24-19 and 9-17-20
Alice Thomas (Howard University Law) – 1 meeting, 9-17-20
Paul Wolfson (Wilmer Hale) – 2 meetings, 10-24-19 and 9-17-20

Meeting Attendance FY21

Betsy Cavendish (OGC) – No meetings yet
Toni Jackson (OAG) – 1 meeting, 12-15-20
Jed Ross (ORM) – 1 meeting, 12-15-20
Ernest Chrappah, (DCRA) – No meetings yet
Mary Buckley (Public Member) – 1 meeting, 12-15-20
Chelsea Sharon, Legal Aid DC – 1 meeting, 12-15-20
Alice Thomas, Howard University Law – 1 meeting, 12-15-20
Paul Wolfson, Wilmer Hale – 1 meeting, 12-15-20

Next meeting is March 18, 2021 at 1:30 pm. Information regarding attendees and Minutes is not yet known. Notice/Agenda will be posted to dcregs.dc.gov/default.aspx on March 5th Vol. 68/10 and March 12th Vol. 68/11 DC Registers.

d. Whether there are any vacancies.

Presently, all eight (8) seats are filled.

11. Pursuant to D.C. Code § 2–1831.17(d), please provide the amount of reimbursed travel expenses in FY 20 and FY 21.

\$0

12. For every meeting of the Committee in FY 20 and FY 21, to date, please provide the agenda, the minutes, a list of all members in attendance, and whether a quorum was present.

Meeting Dates for FY 20:

- Thursday, October 24, 2019 – 12:00 – 1:00 pm; **Notice/Agenda - <https://oah.dc.gov/release/district-columbia-advisory-committee-oah-public-notice-meeting-october-24-2019>; List of Members in attendance below, and link to Meeting Minutes: https://oah.dc.gov/sites/default/files/dc/sites/oah/release_content/attachments/Minutes%20-%20October%2024%2C%202019%20-%20OAH%20Advisory%20Committee%20Meeting.pdf**

Members in attendance: Betsy Cavendish, Chair; Chelsea Sharon, Legal Aid of DC; Christine Davis, GC, DPW; Mary Buckley, Community Representative; and Paul Wolfson, Mayoral Appointee - Quorum

- Thursday, December 12, 2019 – 12:00 – 1:00 pm; **Notice/Agenda – dcregs.dc.gov – N0087641 – Dec. 13, 2019 – DCR Issue: Vol. 66/51 <https://dcregs.dc.gov/Common/DCR/Issues/IssueCategoryList.aspx?CategoryID=10&IssueID=794>, List of Members in attendance below, and link to Meeting Minutes: <https://oah.dc.gov/release/advisory-committee-meeting-minutes-dc-office-administrative-hearings>**

Members in attendance: Betsy Cavendish, Chair; Eugene Adams, Chief ALJ, OAH; Mary Buckley, Community Representative; Toni Jackson, General Counsel, OAG; and Michael Krainak, ORM – Quorum

- Thursday, March 19, 2020 – 1:00 – 2:00 pm (**Meeting Cancelled**)
- Thursday, June 18, 2020 – 1:00 – 2:00 pm (**Meeting Cancelled**)
- Thursday, September 17, 2020, 1:00 – 2:00 pm (**Attached Notice/Agenda, also found at dcregs.dc.gov - N0097566 - Sept. 11, 2020 - DCR Issue: Vol. 67/38 – 010989, List of Members in attendance below, and WebEx Recording of Meeting Minutes (may be unavailable) are found at <https://oah.dc.gov/node/1496751>**)

Members in attendance: Acting Chief Administrative Law Judge Deborah Carroll (OAH), Louis Neal (OAH), Betsy Cavendish, Mary Buckley, Ernest Chrappah, Toni Jackson, Jed Ross, Alice Thomas, Chelsea Sharon, and Paul Wolfson - Quorum

Meeting Dates for FY 21:

Tuesday, December 15, 2020, 1:30 – 2:30 pm; **Notice/Agenda found at dcregs.dc.gov - N100444 - Dec. 11, 2020 - DCR Issue: Vol. 67/51 – 014562, List of Members in attendance is below, and Meeting Minutes are found at <https://oah.dc.gov/node/1523311>:**

List of Members in attendance below):

Members in attendance: Chief Administrative Law Judge M. Colleen Currie, Jed Ross, Mary Buckley, Toni Jackson, Chelsea Sharon, Alice Thomas, and Paul Wolfson
Quorum

Thursday, March 18, 2021 at 1:30 pm; Notice/Agenda will be published on March 5, 2021 at dcregs.dc.gov/default.aspx: Vol. 68/10 – 3-5-2021, N104402 and March 12, 2021 – Vol. 68/11, N104403. Also, Notice/Agenda forwarded to OAH for uploading to their website.

Thursday, June 17, 2021 at 1:30 pm; No Notice/Agenda yet

Thursday, September 15, 2021 at 1:30 pm; No Notice/Agenda yet

13. Please provide any rules of procedure that have been adopted by the Committee.

No rules of procedure have been adopted by the Committee. Typically, Committee members present introduce themselves, and if the number of persons in attendance at the meeting is not too high, they introduce themselves, too. Most meetings include a report from the Chief Judge. Some meetings include a specific agenda topic for discussion; others are more in the nature of “open microphone” and reactive to the report of the Chief Judge. Usually there is time for questions or comments from members of the public who attend, who may include agency counsel, judges, or others, which sometimes prompt a discussion by members of the Advisory Committee.

14. Please list any current recommendations of the Committee to improve the operations of the Office of Administrative Hearings, including any recommendations for statutory and regulatory changes.

The Committee has not formally voted on recommendations, but from the tenor of discussions, certain issues are prominent:

- A. It’s often been stated that the OAH should endeavor to have a searchable, keyword database of significant opinions, and quarterly reports to the Committee of key cases. It is very, very difficult for agency counsel to find out how OAH has ruled unless the case was from that agency.
- B. OAH’s efforts to support the many persons who litigate pro bono are welcome, including through its Resource Center, and should be sustained. as should its accessible interpretation services for its Limited English Proficient litigants.
- C. Earlier scheduling of hearings may help parties move to settle or resolve matters and may help improve the timeliness of decisions.
- D. Establishing jurisdiction by statute, rather than by memoranda of understanding with agencies, with attendant direct funding, is desirable, not because jurisdiction by MOU

compromises independence, but for more certainty in all aspects of planning, and transparency as to the costs of government programs.

- E. The efficiencies afforded by on-line hearings demonstrated during the pandemic should lead to options for such hearings after persons return to work.
- F. Build upon the improvements made under Chief Judge Adams conducting to accountability and efficiency; the record of the Committee on Selection and Tenure (COST) in finding and appointing excellent new administrative judges; and promoting courtesy to the public, litigants, staff and other judges.
- G. The vastly increased number of cases over the past few years warrants creativity in handling the administrative burdens and resolving the cases timely; the multiplication during the pandemic of Unemployment Insurance cases, with an attendant ballooning of cases at OAH, has created a critical condition.

15. Please describe any issues of importance to Administrative Law Judges and agencies that the Committee identified as needing to be addressed by the Office in FY 20 and FY 21, to date.

Some ALJs reported that agency counsel sometimes failed to appear for hearings. An accountability system for judges to provide feedback to their GCs or their supervisors is necessary.

Agency counsel report that when hearings or motions are not scheduled, especially in cases involving companies, parties may not come to the negotiating table and problems may remain unresolved. Then, when matters do settle in the limited time before the hearing, hearing slots may be wasted. The advice is to schedule matters farther in advance, even double-booking, on the assumption that more matters will be resolved prior to the proceeding.

16. Please describe any policies or regulations proposed by the Chief Administrative Law Judge that the Committee reviewed or commented upon in FY 20 and FY 21, to date.

None were provided.

17. Please describe the Committee's achievements in FY 20 and FY 21, to date.

In a limited way, the Committee, including its members, provided an important channel of communications from OAH to the Executive and the public at large. Moreover, the Committee has dedicated members and partners who are able to provide feedback from a private practice, not for profit, and public perspective in order to have a well-rounded suite of support to OAH.

The Committee played a small role in supporting Judge Deborah Carroll when she served as Interim Chief Judge, and in transitioning Chief Judge Currie following her appointment as Acting Chief in November, 2020.

18. How has the COVID-19 pandemic affected the Committee's efforts in FY 20 and FY 21, to date? What additional support is needed to meet its goals?

Like most Boards, the Advisory Committee has now successfully shifted to meeting on line, after initial technological hiccups and interruptions due to the press of pandemic related legal work.

The pandemic initially slowed the resolution of matters at OAH until it made the transition to a remote work posture. Now, OAH appears to be operating efficiently but there remains a backlog, and the Advisory Committee stands ready to assist in supporting efforts of OAH to seek creative ways to catch up, and to think through the challenge Mayor Bowser has issued to all agencies: namely, how can we come back better from this pandemic? What lessons did we learn that we should keep in place? How can we come back fairer and more equitably?