



**ADVANCING ADMINISTRATIVE JUSTICE
THROUGH CENTRALIZED COORDINATION AND SUPPORT**

REPORT AND RECOMMENDATIONS FOR REFORM

AUGUST 2019

Submitted pursuant to Executive Order 2017-04



ABOUT THE BUREAU

The Bureau of Administrative Hearings provides centralized coordination and support for administrative hearings functions across the State. Implementing Executive Order 2017-04, the Bureau facilitates professional development for the State's adjudicators, coordinates IT solutions for Statewide hearings units, promotes uniform hearings rules, coordinates inter-agency work-share initiatives, and works collaboratively with stakeholders to improve the administration of justice in Illinois.

The Bureau also conducts high quality, independent administrative hearings for agencies that do not employ their own administrative law judges, providing an impartial forum where Illinoisans receive fair, prompt, and cost-effective resolution of disputes.



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WELCOME

Fair and effective hearings are at the heart of the State's ability to provide meaningful resolution to its people. Since its inception in 2016, the Bureau of Administrative Hearings has worked to understand the current state of administrative adjudication in Illinois, study best practices tested by other jurisdictions, identify improvements to offer Illinoisans quality service, and create a strategic plan for the future of administrative law in Illinois. Working collaboratively across executive agencies, the Bureau aims to reinvent the way in which the State provides adjudicative services.

We are thrilled by the enthusiastic response to our mission and early initiatives. In the pages that follow, you will find an overview of the Bureau's journey to date and what lies ahead. We appreciate the opportunity to share our vision and plans with you and encourage you to become involved in the Bureau's reform efforts.

The progress described herein could not have taken shape without the expertise and support of many steadfast administrative law judges, support-staff, and others that continue to drive positive reform. The Bureau would like to recognize the herculean efforts of the prior Bureau Chief, subcommittee chairs, and the Bureau's administrative law judges who, each day, continue to build a fair and effective forum where Illinoisans find resolution. The Bureau is grateful for the support of its umbrella agency, the Illinois Department of Central Management Services, an experienced provider of State services, and a tremendous partner as the Bureau aims to serve customer agencies and the public.

The Bureau is pleased to submit this report to Governor JB Pritzker, Honorable Members of the General Assembly, and the people of Illinois. We look forward to working together to make the hearings process work better for all Illinoisans.

Katy Straub, Bureau Chief/Deputy Director
Bureau of Administrative Hearings

“Fair and effective hearings are at the heart of the State's ability to provide meaningful resolution to its people.”



Introduction

Illinoisans interact with administrative agencies any time they apply for a driver's license, send their children to public school, or apply for a business or professional license, among other services. Such functions often have a hearing component, through which individuals and entities can have issues heard and decided by administrative law judges (ALJs).

Under the current system, **over 150,000 annual hearings come under the authority of more than 25 State agencies.** Each agency has its own system of administrative regulations, with some agencies having multiple regulatory schemes within the same agency. This makes life exponentially more difficult for practitioners and self-represented litigants who must work to master a unique procedural process for each agency before which they appear. Agencies have vastly different caseloads, staffing, and technological resources available, which often lead to unwieldy backlogs at individual agencies.

Due to the decentralized system of hearings units, Illinois cannot maximize the talent and drive of its adjudicators, nor benefit from cross-training and shared experience and cannot respond flexibly to fluctuations in case filings. More important to the cause of justice, when investigators, adjudicators, and final decision-makers are all housed within the same agency, litigants may often feel like the deck is stacked against them.

More than half of U.S. states and numerous municipalities or counties, including the City of Chicago and Cook County, have solved these same concerns by creating centralized panels of adjudicators employed by an independent agency/division with the sole charge of hearing cases and issuing decisions. Scholarly research of central panels reflects that these centralized hearings units are more efficient than their decentralized predecessors. More important, these central panels improve the public's confidence in the process and employ high-quality ALJs empowered by their independent roles.

On April 29, 2016, the Bureau of Administrative Hearings was created as a one-year pilot via Executive Order 2016-06. Housed within the Department of Central Management Services (CMS), the Pilot Bureau was tasked with gathering data and assessing the feasibility of consolidating hearings units to reduce hearing backlogs and to improve the administration of justice. Since its inception, the Bureau has worked to **implement a transformation of administrative law to increase access to justice, improve quality of adjudication, and effect efficiencies while delivering timelier, better service.** Upon conclusion of the pilot, Executive Order 2017-04 made the Bureau a permanent fixture in State government, extending its authority to work with up to 25 agencies toward

administrative efficiencies and increased performance. The Order also directs continued data-gathering and other efforts to improve administrative justice in Illinois.

This report serves two purposes: (1) to detail the work of the Bureau in furthering administrative justice, and (2) to set forth important considerations for the future of administrative hearings reform. As such, the report provides a brief history of the context for reform and the successes of the pilot prior to describing current initiatives.



Early Successes

Working collaboratively across executive agencies to improve the administration of justice, the Bureau embarked on a number of notable initiatives during the pilot, addressing:

MODEL PROCEDURAL RULES

The Bureau created a set of model hearings rules that, when implemented, will streamline existing hearing processes; protect due process; eliminate confusing and contrary regulatory processes between agencies and hearing units; and make the State's regulatory scheme more user-friendly to individuals, entities, and legal practitioners.

AN ALJ CODE OF PROFESSIONAL CONDUCT

The Bureau implemented the first-in-the-State Administrative Law Judge Code of Professional Conduct. This document serves as guidance for ALJs in the conduct of their important work, work that often presents challenges distinct from those facing advocates. The Code of Conduct is a valuable tool for ALJs who strive every day to conform their conduct to the special ethical considerations that come with being an adjudicator.

ENTERPRISE CASE MANAGEMENT NEEDS

The Bureau worked with the Department of Innovation and Technology (DoIT) to identify business requirements for an enterprise case management solution that will transform the State's outdated processes into a state-of-the-art system simplified for use by State agencies and litigants alike. The IT solution is expected to greatly reduce processing time; eliminate costly and cumbersome paper-based processes; improve tracking, reporting, and transmission of cases; transform litigants' access to information about their cases; and make it easier for litigants of all means to assert their rights before State agencies.

ALJ PROFESSIONAL DEVELOPMENT OPPORTUNITIES

Professionals from numerous State agencies combined their knowledge and experience to author a Bench Manual for Illinois Administrative Law Judges. The Bench Manual provides best practices, guidance, suggestions, and resources to the State's ALJs as they go about the work of conducting fair and expedient administrative hearings that preserve due process and administer justice. The Bureau also implemented ALJ-centered training on topics ranging from case management and decision writing to cultural competence in

administrative hearings and surviving administrative review. The Bureau coordinates access to beneficial outside training. Accepting the generous invitation of the Cook County Department of Administrative Hearings, the Bureau has facilitated attendance of State ALJs and Chief ALJs at the intensive two-day *Best Practices for Administrative Law Judges* training taught by faculty of the prestigious National Judicial College.

HEARINGS SOLUTIONS

The Bureau has centralized hearings functions for agencies whose caseloads do not justify employing their own ALJ. This move has allowed agencies to eliminate costs of contracting with private attorneys to serve as ALJs, which ensures their cases are heard by an independent, experienced adjudicator at a lower cost to taxpayers.

AN INFORMATIONAL WEBSITE

The Bureau launched a website, which among other things compiles information regarding the State's many hearings processes and allows Illinoisans to make suggestions to improve administrative hearings.



Themes Advancing Administrative Justice

Based on the Pilot Bureau's successes, Executive Order 2017-04 has allowed the Bureau to continue steering long-term reform projects initiated during the pilot. Post-pilot, the Bureau has centered its initiatives around six key themes, discussed in this report.

- **ACCESS TO JUSTICE**
- **ADJUDICATOR EXCELLENCE**
- **QUALITY, INDEPENDENT, FAIR HEARINGS**
- **IT MODERNIZATION**
- **CONTINUOUS PROCESS IMPROVEMENT**
- **BACKLOG ELIMINATION**

ADMINISTRATIVE HEARINGS IMPACT

As social and economic problems are increasingly complicated, and society becomes more interconnected and fast-paced, the role of administrative law—and the State agencies that administer laws—has become more important to individuals. Throughout the 20th century, the administrative state expanded. While individuals often know the court system exists as a forum to adjudicate their rights and define their obligations to government and to each other, the increasing impact of administrative law in their lives may come as a surprise.

Administrative agencies have statutes they implement and administer and pass rules that may govern the conduct of constituent individuals and businesses. In order to carry out these laws and rules, agencies may have investigatory arms that root out violations of law, and enforcement arms that can take action based on the outcome of investigations.

State administrative agencies often serve as neutral decision-makers for disputes among third parties, as when individual employees are challenging whether they were paid appropriately. In other instances, the State is taking an action impacting a private individual or business entity, whether it is revoking a license, setting public assistance levels, or taking other regulatory action. The State's ability to act is not unlimited. Individuals or entities impacted by government action can challenge the State's determinations. Most frequently, this challenge occurs in an administrative hearing process. A neutral, unbiased, administrative law judge¹ hears the case.

Administrative hearings units work much like courts that handle civil cases, but there are some major differences. Administrative hearings units often 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.

An individual is more likely to encounter legal process as conducted in an administrative hearing than in a traditional court. A list of the types of adjudicatory disputes would be nearly endless. Is an applicant eligible for benefits? Did a real estate broker defraud consumers? Should an agency levy a civil penalty? Revoke a professional license?

Administrative adjudication is the face of personal justice for thousands of Illinoisans. It is highly deserving of our attention to ensure fairness and effectiveness for all.

¹ Like so many other facets of the administrative hearings process in Illinois, there is no uniformity for adjudicator titles. Some are ALJs, while others are called "Hearing Officer," "Hearing Referee," "Fair Hearing Officer," or others. For purposes of this report, ALJ will be used to refer to all the State's adjudicators, regardless of title.



Illinois Landscape

In Illinois, 150,000-plus administrative hearings are held before more than 25 State agencies each year, with the number increasing steadily. Illinois has traditionally taken a decentralized approach to hearings that differs from the majority of states in the nation. Because administrative hearings units are housed at separate agencies, these units are limited in what types of cases they decide. For example, the Department of Revenue handles income tax cases but does not hold hearings about unemployment tax withholding. Caseload, support-staff ratios, use of technology, and internal training programs vary by agency. Because of this decentralized approach, litigants before the State's administrative courts can have varying experiences while facing different procedural requirements. While one set of litigants can have resolution within months, others may wait years. Without centralized coordination, the State was not poised to address these disparities.

These limitations present challenges for both the efficient operation of hearings, and for litigants who must navigate the hearings system. Under its largely decentralized system of hearings units, Illinois cannot maximize the talent and drive of its adjudicators, nor benefit from cross-training and shared experience and cannot respond flexibly to fluctuations in case filings. With investigators, adjudicators, and final decision-makers all housed within the same agency, litigants may often feel like the deck is stacked against them.

Across the nation, hearings units have confronted the same issues Illinois faces: backlog; inefficient use of resources; and inconsistent legal procedures. Repeatedly, Illinois' peer states have turned to centralization of administrative law functions as a solution to these problems. A majority of states and many municipalities, including the City of Chicago and Cook County, have some form of the central panel model. As a result, they report that their administrative law judges decide cases more quickly, consistently, and efficiently, and litigants enjoy greater clarity about the hearing process. Public trust is also bolstered where individuals can interact with an impartial judiciary. Scholarly research of central panels reflects that these centralized hearings units are more efficient than their decentralized predecessors.

At least 10 bills to consolidate hearings units and achieve greater independence, efficiency, and oversight have been introduced in the Illinois Legislature over the years, gaining bipartisan support and often advocated by the Illinois State Bar Association and social justice groups.



Pilot Creation

On April 29, 2016, Executive Order 2016-06 established a pilot bureau to gather qualitative and quantitative data about Illinois hearings, gather best practices, and make recommendations for reform, coordinating between State agencies to identify economies of scale, model best practices, and develop thoughtful approaches to all aspects of administrative hearings work.

State agency surveys quickly identified the following challenges:

- Illinois' administrative hearings processes are a quagmire of administrative rules that are often difficult for practitioners, individuals, and entities to navigate;
- State administrative agencies vary greatly in caseload, support-staff levels, use of technology, and internal training;
- Agencies with the highest caseloads often had the least support;
- Most of the State's technological supports for administrative hearings are woefully inadequate and desperately out of date;
- As hearings data is tracked in different manners, it is difficult to extract meaningful comparisons regarding performance; and
- Experiences varied from agency to agency with respect to both initial and ongoing ALJ training. Of the more than 50 ALJs responding to an early Pilot Bureau survey, nearly half reported receiving no formalized judicial training when they began working as an adjudicator for the State. More than half of ALJs reported they did not receive continuing training specific to their role as adjudicator.

Executive Order 2016-06 directed the Pilot Bureau to focus on:

- Providing centralized training programs for adjudicators;
- Developing uniform rules of procedure;
- Creating a standardized code of conduct; and
- Developing and implementing a modern, uniform filing and case management system.

To fulfill these functions, the Pilot Bureau created three subcommittees in regulatory reform, information technology, and professional development staffed by agency judges and chief judges, who proposed new solutions to make hearings better.

REGULATORY REFORM

- Scoured thousands of rules in the Illinois Administrative Code and categorized by subject matter, documenting best practices
- Developed a set of model hearings rules that, when implemented, will streamline existing hearing processes; protect due process; eliminate many confusing and contrary regulatory processes between agencies and hearing units; and make the State's regulatory scheme more user-friendly

TECHNOLOGY

- Developed detailed business requirements for an enterprise case management solution to transform the State's outdated processes into a state -of-the-art system simplified for use by State agencies and litigants
- IT solution is expected to greatly reduce processing time; eliminate costly and cumbersome paper-based processes; improve tracking, reporting, and transmission of cases; transform litigants' access to information about their cases; and make it easier for litigants of all means to assert their rights before the State agencies

PROFESSIONAL DEVELOPMENT

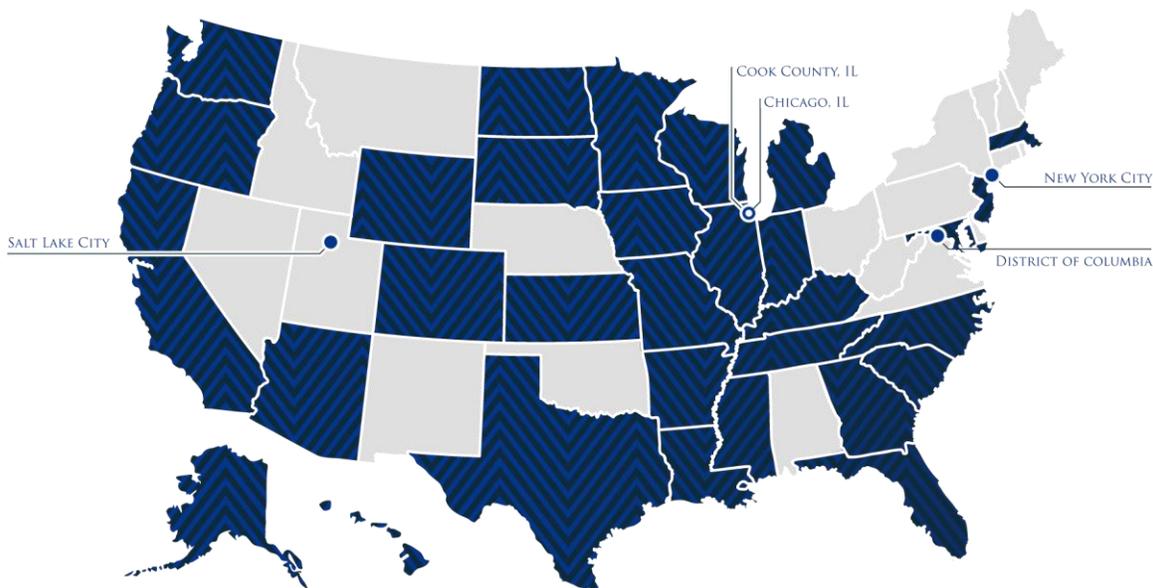
- Conducted a comprehensive ALJ survey
- Compiled a "Bench Manual" as a standard orientation tool for judges
- Researched and drafted a Code of Professional Conduct for ALJs
- Coordinated professional training for ALJs, including sponsoring a day-long seminar on administrative law



Central Panel Experiences Around the Nation

Decades of published research on the central panel model of adjudication reveal that central panels uniformly cite increased productivity accomplished in primarily two ways: 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 the other functions of, say, a state's primary Medicaid agency. Central panels capture positive results from not only the economies of scale when dealing with a high volume of hearings but also the flexibility to assign ALJs in a way they could not in smaller organizations. Because of the shared resources and available cross-training, the central panel is more easily able to meet hearings needs at any given time.

JURISDICTIONS HAVING ADOPTED A CENTRAL PANEL MODEL OF ADJUDICATION



As shown on the map above, more than half of U.S. states, and several large municipalities, employ a central panel model of adjudication. California is the oldest central panel state with roots dating to 1945, while Indiana is the latest to enact central panel legislation just this year. While central panels vary in size, manner of creation, and types of hearings held, decades of research confirm central panels increase the community's confidence in the fairness of the proceedings.

Both the Chicago Applesed Fund for Justice, a national leader in central panel research, and professionals working in and around central panels report an increased job satisfaction and greater judicial independence for ALJs. When ALJs are separated from the program agency, hearings unit comprise professional judges instead of agency insiders. The central panels, dedicated to the sole function of hearing cases, provide

more meaningful and on-point training, craft hearing-specific IT solutions to make the job of adjudicators and support staff easier, and better track data to ensure a fairer division of work and better services to the public.

Evidence of the satisfaction participating agencies derive from central panels is the national trend for voluntary use of central panel ALJs. While central panels have statutorily defined jurisdiction, many report that an increasing number of agencies voluntarily seek to have central panel ALJs hear their cases. One fact speaks volumes about the successes of administrative hearing units following the central panel approach. Where a central panel has been created, no state has sought to deconsolidate the panel and return all administrative hearings units to the individual agencies.

It was against this national backdrop that the Pilot Bureau began to reach out to customers and employees, and test consolidation with Illinois agencies.



Testing Consolidation in Illinois

Alongside its subcommittee work, the Pilot Bureau searched for opportunities where interagency resource sharing could be instituted for better, timelier service to Illinoisans, and measured the results and lessons learned from each tested consolidation.

The Pilot Bureau tested consolidation on several fronts. ALJs at the Departments of Revenue and Public Health cross-trained to hear backlogged wage claim cases at the Department of Labor. From October 3, 2016, through the end of the pilot period, June 30, 2017, nearly 550 more individuals received the opportunity to have “their day in court” sooner than would have absent the consolidation. Similarly, when the Illinois State Police had a need for adjudicators to preside over 9-1-1 consolidation matters, the Department of Financial and Professional Regulation’s ALJs trained and heard these cases without any disruption in service to their regular caseload. Small-scale cross-training and case-sharing demonstrated the knowledge and resiliency of ALJs to master new types of cases.

In May 2017, the Bureau took this consolidated approach one step further, hiring an administrative law judge to hear cases for agencies that, despite being authorized to hold hearings, did not employ adjudicators. With no centralized coordination, these agencies looked to solve this problem on an agency-by-agency basis. The solutions usually came in one of three varieties: (1) individually contracting with private sector lawyers to act as ALJs; (2) contracting with other State agencies to use their ALJs; or (3) tasking in-house lawyers to serve as ALJs deciding cases where their coworkers act as prosecutors. The first solution proved to be expensive with agencies spending well over \$100,000 per year on outside contracts. Other State agencies are a valuable resource, but one that many agencies did not know how to utilize. Using co-workers as judge and prosecutor raises significant appearance-of-unfairness issues that should be avoided to improve confidence in government. The Bureau was able to provide a solution for this group of agencies.



Pilot Reform Recommendations

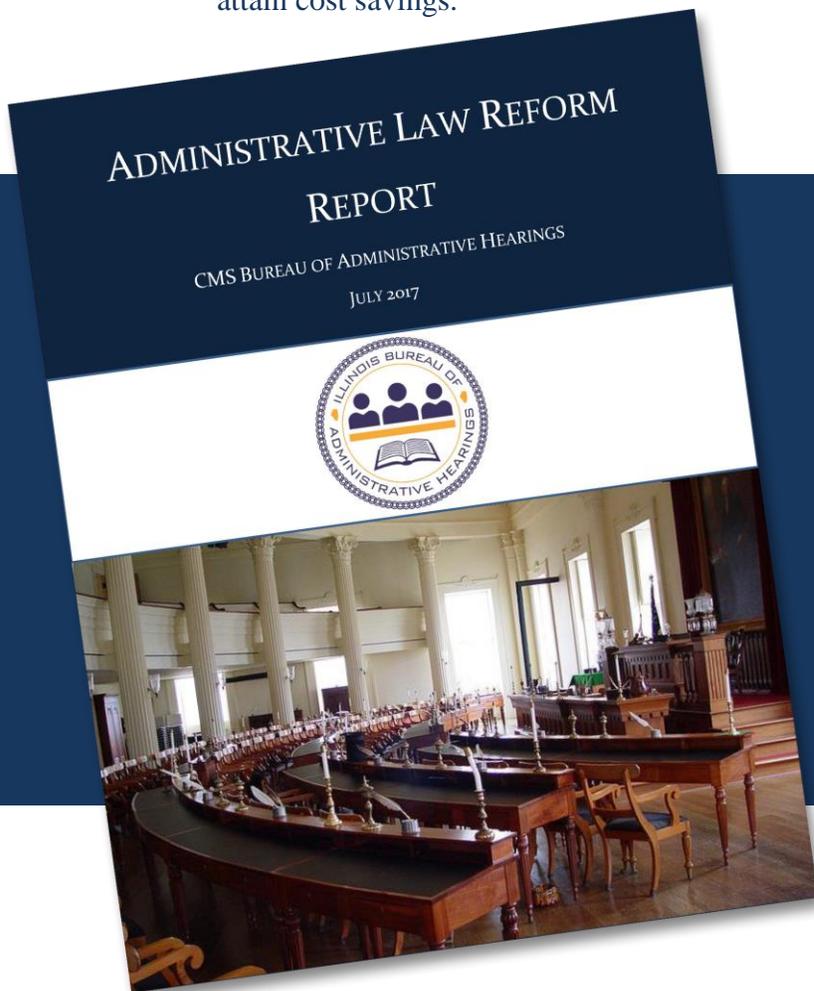
Upon expiration of the one-year pilot, the Bureau released a reform report documenting its detailed findings and recommendations. This report is available for download on the Bureau’s website, under the “Publications” tab. In its report, the Bureau identified and recommended action in four key areas:

RECOMMENDATION ONE: Implement an electronic case management system available to all State agencies that hold hearings to improve transparency, accountability, and customer service, and reap significant time and cost savings once fully implemented.

RECOMMENDATION TWO: Adopt model hearings rules, with agency-specific subparts detailing any statutorily mandated departures from the default, to ensure individuals are able to more easily assert their rights and meaningfully engage in the State’s hearing process. Streamlined process and tightened timeframes to resolution will improve service to the public and result in cost savings.

RECOMMENDATION THREE: Continue and expand ALJ-based training and professional development opportunities.

RECOMMENDATION FOUR: Continue action toward consolidation of some hearings functions into a centralized panel to empower judges, improve customer service, and attain cost savings.



END OF PILOT REPORT

Available on the Bureau’s website, under the “Publications” tab.



Post-Pilot Landscape

Having demonstrated the value of working collaboratively instead of in silos, Executive Order 2017-04 made the Bureau a permanent part of CMS and directed it to expand its efforts with up to 25 agencies. This has allowed the Bureau to expand its efforts to advance administrative justice indefinitely, and made it possible to manage long-term projects such as implementation of a uniform, electronic filing system and centralized adjudicator training.

The number of hearings requested before Illinois agencies has grown in the post-pilot period. Some agencies have reported significant increases. For instance, the number of appeals filed with the Illinois Department of Human Services nearly doubled from Fiscal Year 2018 to Fiscal Year 2019. Additionally, newly passed statutes impacting the rights, duties and privileges of individuals and entities create new corresponding hearing rights. Heavier caseloads continue to strain existing resources and demands innovation to creatively respond to increases.

The rising number of hearings magnifies the challenges identified during the pilot and propels us forward in our efforts to enact meaningful reform. With the Bureau now a permanent entity within CMS, it has entered an exciting new phase as many of the Pilot Bureau's recommendations have morphed into mature initiatives. The Bureau has moved away from its initial three-subcommittee structure, and instead focused on a series of themes that better integrate the initiatives started during the pilot. A section devoted to each theme follows.

POST-PILOT THEMES

Access to Justice

Adjudicator Excellence

Quality, Independent, Fair Hearings

IT Modernization

Continuous Process Improvement

Backlog Elimination



Meeting the Needs of the Self-Represented Litigant

Administrative hearings resolve disputes in important areas, including safety, civil rights, benefits, wages, transportation, and occupational licensing, to name a few. Despite this enormous responsibility, the State's current system presents challenges for self-represented litigants who must navigate sometimes lengthy and complex proceedings without counsel. Compounding these challenges are structural impediments, including vastly different procedural rules from agency to agency; disparities in agency staffing, caseload, and technological resources; and the State's inability to flexibly allocate resources, all of which can lead to delays in the administration of justice for Illinoisans.

For many litigants, their appearance in an administrative proceeding is their first time appearing in a legal forum. Challenges can be logistical like needing time off work or having to find childcare, or the hearing room experience can be intimidating if the process is not clearly set forth. A litigant unsure of how to approach the State forum and interact within its rules and processes won't be able to participate meaningfully which may affect their outcomes. Those involved in hearings must consider the perspective of self-represented litigants in an effort to continuously improve the hearings system.

Self-represented litigants present special challenges for ALJs who must balance informing litigants of their rights yet refrain from crossing the line toward advocacy. From an efficiency standpoint, self-represented parties' lack of familiarity with hearings can contribute to delay. Uncertainty and confusion on the part of litigants can lead to frequent requests for extensions of time in order to adequately prepare their cases, which in turn adds to the time a case remains open.

While most agencies have not historically tracked the percentage of cases in which at least one party is self-represented, anecdotal responses from Illinois ALJs indicate that number **may be as high as 90 percent** in some types of hearings. While legal aid organizations provide a tremendous service, there simply are not enough pro bono attorneys. Outside of Cook County, only one legal aid attorney exists for every 10,000 low-income residents.² As it is not feasible for many to hire an attorney to assist in preparing and presenting their case, we must design a system that works for all. The Bureau strives to make it easier for Illinoisans to interact with the State in a meaningful way, **working collaboratively across executive agencies to remove barriers to justice**. To this end, the Bureau is working on several initiatives to improve accessibility:

USER-FRIENDLY RULES OF PROCEDURE

User-friendly model procedural rules, when implemented, will cut hundreds of rules from the Code, streamline existing hearing processes, protect due process, and eliminate

² Illinois Supreme Court Commission on Access to Justice, Strategic Plan 2017-2020

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.** Adopting consistent, streamlined processes and articulated timeframes for anticipated resolution will improve the State's service to participants. Moreover, consistency and predictability will boost public confidence in the State's process. The expectation is that the rules for all types of hearings would 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.

INCREASED INFORMATION AND SELF-HELP RESOURCES

We must focus on how we communicate the process to litigants and the public by ensuring our websites are useful, common forms are easy to find, written in plain language, and offer translation options. If we do not set forth what a litigant can expect, then a litigant may face additional and unwarranted anxiety.

The Bureau is working to expand plain-language resources and standardized forms to assist litigants in preparing for hearing. The Bureau is also scripting a mock hearing video demonstrating what to expect at a hearing, designed to make the process less intimidating.

EVIDENCE-BASED RESEARCH TO IMPROVE EQUITY

The Bureau is in preliminary discussions with an educational institution to design a study examining how we can best communicate information to self-represented litigants. Conducted by non-biased educational researchers, this data will provide the State with critical insight to further improvements at no monetary cost and contribute to a national body of critical research.

FLEXIBLE PROCEDURES

Where appropriate to the case, the Bureau facilitates use of remote technology to conduct hearings, reducing unnecessary travel for litigants or witnesses. We do this by leveraging technology the State already has access to, like telephones and WebEx to facilitate appearances in remote areas, making it more likely someone can participate in their hearing.

PROVIDING RESOURCES FOR ALJs TO COMMUNICATE TO LITIGANTS

To date, the Bureau has provided 3,500+ hours of hearings-focused education to State of Illinois attorneys, all at no cost to participants. Course topics have included how to engage more actively with self-represented litigants, effective case management, implicit bias, and reader-oriented legal writing. The Bureau released a bench book compilation of best practices to assist ALJs in their work and ensure greater consistency. The Bureau also drafted the first-in-State ALJ Code of Conduct, designed to provide ethical guidance unique to the role of an impartial ALJ, addressing the conduct of a hearing where only one party has an attorney.



Adjudicator Excellence Through Robust Training and Highest Ethical Standards

ALJ-CENTERED TRAINING

The Pilot Bureau created a culture of training, directly providing or facilitating the provision of courses specifically related to the role of impartial adjudicator. Though attorneys are trained in substantive areas of law, the skills and attitudes of a judge are not necessarily inherent in legal training. Judicial training is critical to ensure high standards of performance. To preserve public confidence in decisions issued, it must be satisfied that the ALJ acted impartially and competently in applying the law to their case. Training ensures greater consistency in decision-making. Moreover, frequent training opportunities provide ALJs an opportunity to exchange ideas with their peers.

Since the launch of the Pilot Bureau's first training program in February 2017, the Bureau has provided **more than 3,500 person-hours of education** at no charge to participants or the agencies that employ them. Participants from more than 30 State agencies demonstrate their continued appetite for training through high attendance. With the assistance of DoIT, the Bureau has been able to capture and archive its past trainings for viewing on-demand.

SAMPLE TRAINING TOPICS

- Safety and Security in the Courtroom
- Illinois Rulemaking Procedures
- Ethics for the Government Attorney
- Illinois Evidence Law
- Implicit Bias
- Due Process for ALJs
- Burdens of Proof

For the third year in a row, the Bureau hosted the annual Illinois Administrative Law Conference. Based on substantial registration, the Bureau quickly outgrew its usual training space and moved offsite to the Chicago-Kent College of Law.



In addition to Bureau-sponsored training, the Bureau has partnered with other organizations to facilitate meaningful training opportunities. Accepting the generous invitation of the Cook County Department of Administrative Hearings, Illinois adjudicators have attended *Best Practices for Administrative Law Judges* course, taught by faculty of the prestigious National Judicial College. Additionally, three Illinois ALJs, including two from the Department of Children and Family Services, and one from the Bureau, received full tuition scholarships to attend the skills-based Administrative Law Advanced course at the National Judicial College in June 2019.

ALJ RESOURCE CENTER

In the coming weeks, the Bureau will be rolling out an online “ALJ Resource Center” that will serve as a repository for past training materials, the Bench Manual, the ALJ Code of Professional Conduct, as well as a calendar of training events and colleague contact information. By providing this one-stop-shop self-learning center, agencies may incorporate this material into new ALJ orientation.

CONNECTING ALJS TO SOLVE CHALLENGES

Often our best untapped resources are our colleagues. Familiar with the environment in which we operate and often faced with similar challenges, we can help one another. The Bureau intends to launch optional “Breakfast with the Bureau” roundtables as a way for ALJs to start their day with a short but useful discussion of any challenges with their colleagues. This will also serve as an informal way to share best practices and ideas for how to improve the administration of justice in our State.

Taking these casual drop-in meetings further, the Bureau will soon solicit experienced ALJs interested in becoming mentors to new ALJs. Having the ability to connect with an ALJ outside one’s agency will be one more support for a new ALJ.

EVALUATION OF THE ALJ CODE OF PROFESSIONAL CONDUCT

Ethical codes governing attorneys or State employees do not specifically address the unique ethical dilemmas that regularly confront ALJs. This is why the Pilot Bureau prioritized the drafting of a Code to provide useful guidance to Illinois ALJs. In late Summer, the American Bar Association’s House of Delegates will meet to discuss and vote on adoption of the newest edition 2018 Model Code of Judicial Conduct for State Adjudicators. The Bureau will follow these national trends and alert Illinois ALJs to any significant changes that may warrant amendment to our Illinois Code.

ALJ DIVERSITY & CULTURAL COMPETENCE

Data on the benefits of workplace diversity is compelling and well-established. Moreover, diversity in the judiciary contributes to increased public trust in the system. The Bureau has partnered with CMS’ Office of Diversity and Inclusion to gather information regarding diversity of the State’s ALJs. The Bureau has also coordinated implicit bias and cultural competence training for Illinois adjudicators to ensure fairness in decision-making.

QUALITY, INDEPENDENT, FAIR HEARINGS



Centralized Adjudication in Illinois

In addition to coordinating Statewide reform efforts, the Bureau conducts high quality, independent administrative hearings for agencies that do not employ their own ALJs, **providing an impartial forum where Illinoisans receive fair, prompt, and cost-effective resolution of disputes.**

Since May 2017, the Bureau's first ALJ has laid the framework for the beginnings of a central panel. What began as a limited case-sharing solution for Springfield-based agencies to share one judge for their cases, has quickly grown into the Bureau providing services for up to nine Illinois agencies, from approximately 150 case referrals in the Bureau's first year, to nearly 250 in its second year, cementing the Bureau as Illinois' first centralized hearings panel. In November 2018, the Bureau hired a second experienced administrative law judge to accommodate the Bureau's growing caseload, moving the Bureau's hearings from a "central person" to a "central panel".

The Bureau continues to take on additional types of cases, forming the prototype for how a larger central panel could operate in Illinois. The Bureau receives Department on Aging's (DOA) new Adult Protective Services Registry appeals, and most recently has conducted hearings for the Board of Higher Education on the denial or revocation of permits of approval to operate under the Private Business Vocational School Act of 2012 (105 ILCS 426/). Learning the intricacies of each area, without the benefit of developed cross-training materials of a central panel, is no easy feat, and the Bureau's ALJs have developed tremendous skill in which to hear cases in a fair and effective manner.

AGENCIES THE BUREAU HAS SERVED, OR STANDS READY TO SERVE:

DEPT. ON AGING

DEPT. *of* COMMERCE &
ECONOMIC OPPORTUNITY

ILLINOIS STATE POLICE

DEPT. *of* AGRICULTURE

OFFICE *of* STATE FIRE MARSHAL

BOARD *of* HIGHER EDUCATION

DEPT. *of* NATURAL RESOURCES

EMERGENCY MANAGEMENT AGENCY

DRY CLEANER
ENVIRONMENTAL RESPONSE
TRUST FUND



Challenges and Lessons Learned

While the Bureau is proud of its work to provide quality, independent, and fair adjudication, it is not immune from the same challenges present across the State.

The task of navigating conflicting procedural rules is magnified as the Bureau conducts hearings for nine different 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 remains a priority.

Currently, the Bureau is offering centralized hearings support without the benefits of larger central panel operations, like an electronic case management system, administrative support, and authority to institute its own procedural rules. For instance, without automated case management and electronic records, simple administrative tasks such as compiling and certifying the hearing record, scheduling, and sending certified mail can be unnecessarily time-intensive. Perhaps the largest challenge in the beginning stemmed from unpredictability in the timing of incoming case referrals from multiple agencies, and variability in timeline required for completion. At first, with only one pooled ALJ to conduct hearings, existing cases on the docket had to yield to incoming cases required to be expedited by law. Having added a second experienced adjudicator, the Bureau is now able to better balance its caseload while continuing to provide independent, fair hearings to Illinoisans.

The Bureau is thankful to agency Directors and staff that have been patient and willing to work collaboratively as the Bureau tests new methods for case intake, scheduling, and sending records. Armed with a network of experienced central panel colleagues across the nation, and the support of Illinois' premier central services provider, CMS, the Bureau is confident it will continue to implement the infrastructure required to accommodate the growing need for centralized hearings support.



Modern Technology Solutions to Improve Efficiency, Accountability, And User Experience

As the State’s technological systems are aging, the number of hearings across the State are growing. Inefficient technology contributes to delays that create backlogs, making the public wait longer for decisions. Implementing an electronic case management system available to all State agencies that hold hearings is a worthy investment that can not only improve transparency, accountability, and customer service, but is also **expected to provide cost savings of \$3 to \$4 million per year**, through:

- **50 percent reduction in time spent on calls, emails, and faxes;**
- **45 percent reduction in first class mailings;**
- **55 percent reduction in time spent scheduling;**
- **70 percent reduction in time spent creating administrative review records;**
- **55 percent reduction in time spent creating reports.**

Properly designed and implemented, a case management system is a critical component in determining the effectiveness and efficiency of a hearings unit. Ready insight into case statistics increases transparency and accountability and ensures that each case continues moving toward resolution.

The Bureau continues to hone its detailed business requirements for a uniform, electronic filing and case management system and has partnered with the knowledgeable team at DoIT to explore cost-effective solutions that fulfill the State’s needs. A centrally supported uniform system will **eliminate costly licensing and maintenance of many disparate systems**. State technical teams will be able to focus on supporting one system in a single environment, a viable solution for years to come. A solution could potentially be scaled for other types of workflow management, not limited to administrative hearings.

A mobile-friendly public interface will allow litigants access to information about their cases anywhere anytime, making it easier for them to assert their rights in hearings. People have come to expect technology as part of a customer experience. In almost all aspects of daily life, people have grown accustomed to conducting activities online, whether ordering groceries, banking, or renewing their driver’s license.

CONTINUOUS PROCESS IMPROVEMENT



Efficiency Through Process Improvement

RAPID RESULTS WORKSHOP TRAINING

Partnering with CMS’ process improvement experts in the Office of Rapid Results, the Bureau helped to launch the first customized workshop targeting efficiency in administrative proceedings. Rapid Results is a program that uses proven principles of operational excellence and continuous improvement to evaluate and improve Illinois State Government Services. Unlike traditional “top-down” operational improvement initiatives, Rapid Results leverages the expertise and knowledge of front-line State government employees in the identification of solutions. As we continue administrative law reform efforts, the Bureau encourages hearings staff to participate in Rapid Results workshops. Seemingly small improvements are cumulative and, over time, may result in time savings better allocated to hearing cases and issuing decisions, thereby ensuring timelier resolution.

UNIFYING BUSINESS PROCESSES

In November 2018, the Bureau began a 12-week engagement with a professional consulting firm to assist the State in identifying further efficiencies, mapping business processes under a centralized system, and recommending actions that will optimize future implementation of an IT solution. The Bureau also sought to identify business process improvements that could be implemented independent of technology to achieve maximum efficiency.

Representatives having detailed knowledge of the current hearings processes in use by 12 State agencies each volunteered to share their expertise. First, by responding to a brief survey regarding the agency’s hearings processes, and then later by meeting with the consulting team in-person for a more intensive process mapping session. Agency hearings processes mapped during this phase encompassed small, medium, and large-volume hearings agencies, with several having already designated the Bureau to provide centralized adjudicative support for their hearings.

DEPT. ON AGING

OFFICE *of* STATE FIRE MARSHAL

DEPT. *of* INSURANCE

DEPT. *of* AGRICULTURE

EMERGENCY MANAGEMENT SERVICES

DEPT. *of* HEALTHCARE & FAMILY SERVICES

DEPT. *of* NATURAL RESOURCES

ILLINOIS STATE POLICE

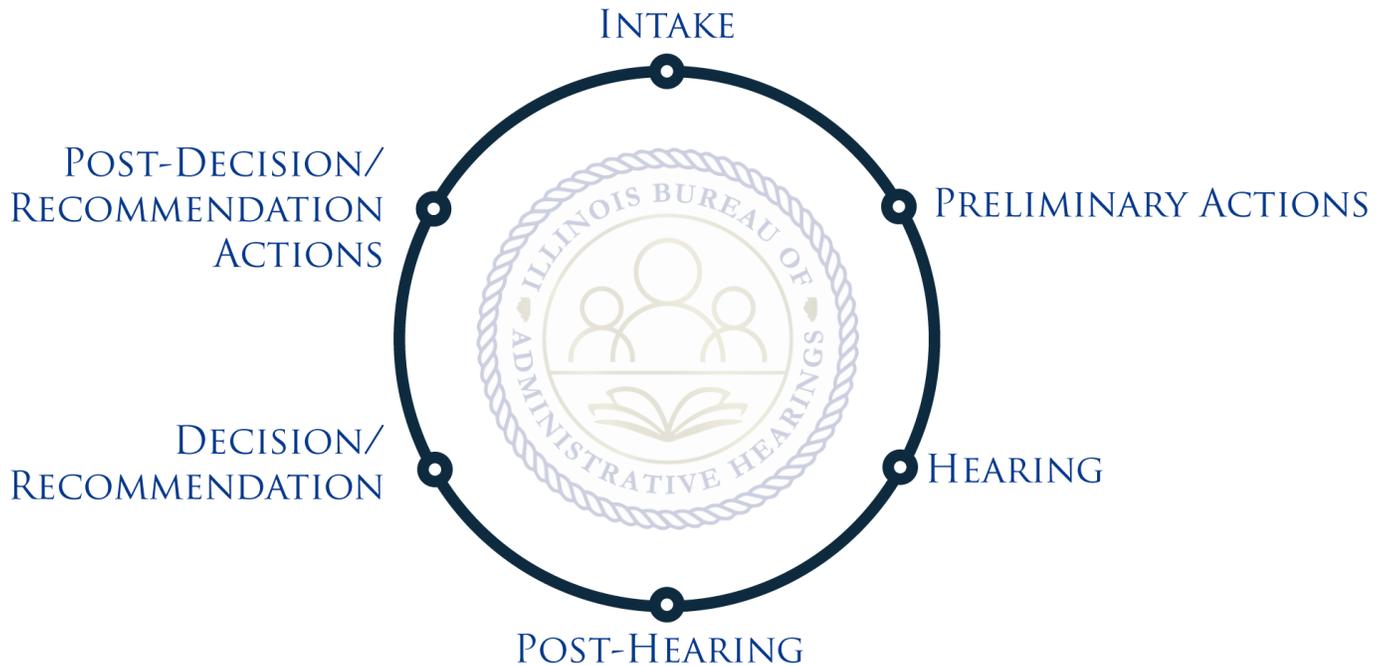
DEPT. *of* CHILDREN & FAMILY SERVICES

DEPT. *of* COMMERCE & ECONOMIC OPPORTUNITY

DEPT. *of* HUMAN SERVICES

DEPT. *of* REVENUE

During this initial discovery phase, the team identified key areas where it may begin to standardize best practices. Though terminology and required timeframes for completion of tasks may vary, most hearings generally follow the broad life cycle illustrated below, beginning with intake and concluding after the time for any post-decision or recommendation actions has passed. This is good news as we embark on developing an enterprise case management solution that may be scaled to any agency with a need.



MEASURING PERFORMANCE

Just as agency practices and procedural rules vary, so too do methods of collecting key performance indicators (KPIs) that measure the efficiency of a hearing unit. Generally, agencies having more robust case management systems can produce detailed reports with the click of a button, while agencies that have outdated or no electronic case management systems lack the ability to quickly generate self-service reports to inform current and future operations.

As the Bureau is charged with making recommendations for consolidation of hearings units to increase efficiency and quality of hearings, it is crucial that we rely on accurate data. As was evident during early Pilot Bureau surveys, collecting hearings data is often time-intensive and done manually. Moreover, even where data is consistently tracked across agencies, it may be tracked in different ways or at different intervals that make it challenging to draw meaningful comparisons. The Bureau intends to leverage the support of CMS' experts in data practices to implement uniform KPIs and create a dashboard to monitor hearings data. The Bureau will continue working with agency Chief ALJs to identify ways to collect such data in the least intrusive way.



Adjudication of Illinois Human Rights

The combined work of the Illinois Department of Human Rights (Department) and the Illinois Human Rights Commission (Commission) improves the quality of life in our State by promoting and enforcing one of the most comprehensive human rights protection statutes in the nation—the Illinois Human Rights Act (Act). The Act offers protection against discrimination in the areas of employment, real estate transactions, financial credit, public accommodations, and education.

Through the Act's broad coverage, extending protection to additional categories not afforded under federal law, such as military status, sexual orientation, order of protection, and arrest status, Illinois provides an important forum for its residents to seek justice. A quasi-judicial agency, the Commission provides a neutral forum for Illinoisans to litigate complaints of civil rights violations. Its fee-free availability makes it an invaluable tool for self-represented litigants that often cannot afford fees accompanying court litigation.

Despite the State's critical role in eradicating discrimination, cases at the Commission accumulated as **backlog for nearly a decade**, forcing participants to sometimes wait five or more years for resolution of their complaints. Languishing cases harm not only those awaiting decision, but also the public as a whole. Excessive delays diminish the enforcement of human rights in our State, endangering the rule of law. Unresolved cases also impede confidence in Illinois' business climate.

Highlighting the Bureau's successes coordinating between State agencies to identify economies of scale, model best practices, and develop thoughtful approaches to all aspects of administrative hearings work, Executive Order 2018-08 tasked the Bureau with coordinating inter-agency efforts to resolve more than 2,500 backlogged cases within 18 months.



Plan of Action and Results

Legal, technical, and operational leaders at the Department, Commission, Bureau, and DoIT quickly mobilized a Transformation Team to implement the Order. The Transformation Team recognized that justice is not an assembly line, and that each backlogged case reflects human experience.



In pursuit of a thoughtful, carefully calculated Plan, the Transformation Team embarked on a journey to:

- Identify extent of backlog by cataloging inventory of all pending cases;
- Isolate root causes of backlog;
- Review current efforts to reduce backlog; and
- Make recommendations to address the existing backlog and prevent growth of future backlog.

Taking comprehensive inventory of all cases pending before the Commission, the Transformation Team discovered that backlog was isolated to the Commission's General Counsel's Office, and almost exclusively on Requests for Review of the Department's investigatory determinations. Prompt resolution of these matters is important because it is the first hurdle in whether an aggrieved individual's complaint moves forward to a hearing.

Over one dozen employees participated in a customized Rapid Results facilitated workshop. Within 60 days, the Transformation Team issued a carefully crafted plan to ensure due process and thoughtful consideration of each matter in the reduction of backlog. Since the height of the backlog in June 2018 with more than 2,500 pending cases, the Commission has streamlined existing processes and procedures and reenergized its workforce. **In just the first six months, backlog decreased by 44 percent.** The Commission is on track to eliminate backlog well ahead of the 18-month schedule. Moreover, the comprehensive plan includes changes that will impact the level of service Illinois provides from initiation of a charge at the Department through adjudication of a Complaint at the Commission.

More important, however, is what the Commission did not do. It did not sacrifice due process for Illinoisans. It did not lose sight of its focus to fight discrimination. It did not compromise quality or integrity of its decisions for greater production. These improvements are real, and have provided structure, accountability, and transparency, readying the Commission to absorb major changes in its structure pursuant to Public Act 100-1066. It cannot be stated emphatically enough that these results would not have been possible but for the continued dedication of Commission staff, who have time and again demonstrated their eagerness to tackle new challenges and remain flexible amidst many changes.



OVERALL BACKLOG OF CASES AT THE HUMAN RIGHTS COMMISSION DECREASED BY 44 PERCENT IN JUST SIX MONTHS POST INTER-AGENCY COLLABORATIVE EFFORTS.

Strategic Plan and First Progress Report available on the Bureau's website, under the "Publications" tab.

ADMINISTRATIVE PROCEDURE ACT CHANGES



Illinois Administrative Procedure Act Amended to Reflect Modern Technological Advances

The Illinois Administrative Procedure Act (APA), 5 ILCS 100/10/, which applies to many contested hearings held before Illinois administrative agencies, previously required agencies to serve notices for hearing and final administrative decision by registered or certified mail. This archaic requirement is inconvenient for recipients who may have to travel to the post office in order to obtain the correspondence, and it is costly for agencies. One agency alone, the Department of Children and Family Services, spent more than \$100,000 each year sending more than 13,000 certified letters.

Public Act 100-880 amended the APA, effective January 1, 2019, to expressly allow for electronic mail service. This change accommodates the methods by which individuals and entities have become accustomed to doing business.

As State agencies implement rules governing receipt of delivery of communications, the Bureau is in a position to coordinate with agencies a standard procedure and forms.

Looking ahead, **the Bureau must continue to explore new and innovative ways to meet demand for administrative hearings services.** In addition to advancing the **six themes previously set forth within this report**, the Bureau will also explore as part of its comprehensive strategy for reform, the following:

NEW WAYS TO PROVIDE LITIGANTS WITH RESOLUTION

Many states with central panel adjudication offer mediation services to litigants as a form of alternate dispute resolution. Mediation allows parties to play an active role in resolving their dispute. Parties can craft more creative solutions with remedies not available at law for an ALJ to award. Mediation not only reduces the number of cases that proceed to hearing, but also the number of enforcement actions post-resolution as parties are more likely to comply with a result they had a role in crafting. Implementing methods of alternate dispute resolution can be challenging for agencies that have few ALJs because if unsuccessful, the case must be assigned to another ALJ to conduct a hearing. The Bureau will continue to explore whether a pilot corps of trained mediator ALJs could assist in this area. Given its centralized support position, the Bureau would be in a good place to coordinate a mediation pilot program testing this solution.

INCREASED STAKEHOLDER PARTICIPATION

External customers can help the Bureau identify what expectations customers want addressed, where existing systems should be made more accessible to the public, and where rules can and should be made more user-friendly. For instance, legal aid clinics may shed light on ways to increase accessibility of hearings for self-represented litigants.

Just as external customers can provide valuable insight into existing issues with the hearings process, employees and agency leadership too will provide much needed perspective into proposed solutions. The establishment of a more formal advisory council may offer ongoing and robust feedback. At least three jurisdictions³ that employ a central panel model of adjudication have formal advisory councils that advise on matters relating to administrative hearings, the administrative process, and policies and regulations proposed by the central panel.

CENTRALIZED DATA DASHBOARD

The Bureau will continue to work with agencies across the State to collect data regarding hearings operations. Accurate data is important when crafting long-range solutions. Moreover, such data is critical to mapping processes for implementation of effective case management work flows. Working with CMS' data practices experts, the Bureau will seek to store this data in such a way that will be helpful to future planning.

The Bureau looks forward to working with Governor JB Pritzker, members of the General Assembly, State agencies, and the public to develop thoughtful approaches to advancing administrative hearings.

³ Maryland, Washington D.C., and North Dakota



CONNECT

Meaningful reform happens when we act together.

The Bureau would love to hear your ideas for advancing administrative justice.

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