


Commonwealth of Virginia		
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Administrative Law Advisory Committee		

SUMMARY
Administrative Law Advisory Committee
October 8, 2014
12:00 p.m.
House Room 2
Capitol Building

MEMBERS PRESENT: Tom Lisk (chair), Mike Quinan, Eric Page, Roger Chaffe, Kristi Wright, Jeff Gore, Alex Skirpan, Karen Perrine, Elizabeth Andrews, Edward Mullen, Kristina Stoney

MEMBERS ABSENT: Brooks Smith

STAFF PRESENT: Andrew Kubincanek

Welcome and call to order: Tom Lisk called the meeting to order at 12:05 p.m.

MSAPA Work Group Report: Eric Page presented two options for a new code section on ex parte communications. Option one applied to hearing officers and presiding officers in formal hearings and informal fact finding proceedings and option two applied only to formal hearings. Mr. Chaffe stated that option one would place an undue burden on an agency employee or citizen appointee. Mr. Page stated that it might send the wrong message to exclude informal proceedings from the amendment. Edward Mullen stated that presenting both options to the Code Commission might be the best course of action. The group voted unanimously to present both options to the Code Commission.

Mr. Page presented language for amendments regarding disqualification of hearing officers and default by a non-appearing party. The group voted to recommend both amendments to the Code Commission.

Executive Order 17 Work Group Report: Karen Perrine presented a chart and excerpts from a 2009 Joint Legislative Audit and Review Commission report on executive orders and the VAPA. Mr. Lisk asked Ms. Perrine to call the work group again to determine if there are any legislative changes ALAC could recommend based on the report.

Thomas A. Lisk, Chair
 Elizabeth Andrews
 Roger L. Chaffe
 Jeffrey S. Gore

Edward A. Mullen
 Eric M. Page
 Karen Perrine
 Mike Quinan

Alexander F. Skirpan, Jr.
 Brooks Smith
 Kristina Stoney
 Kristi Wright

Notice Provisions Work Group Report: Mike Quinan began by stating that the work group did not wish to address email or other forms of electronic communication. He added that the Virginia Administrative Code is too voluminous to offer an amendment without extensive study. Mr. Quinan presented two options to allow the use of commercial delivery services through amendments to the Code of Virginia. Option one would amend Title 1 and impact the entire code and option two would amend Title 2.2 and Title 54.1. Mr. Chaffe stated that he liked option one and asked if it could be extended to regulations adopted by agencies. Mr. Quinan stated that the group believed there could be unintended consequences of such an amendment. Mr. Lisk pointed out that the use of commercial services would be at the discretion of the agency. The group discussed whether or not a Title 1 amendment would be beyond ALAC's mandate. Ms. Perrine stated that the amendment could be appropriate if it was tailored to administrative proceedings. Jeff Gore asked if the language could be amended to offer alternatives for proof of delivery. Mr. Lisk instructed the work group to meet again and formalize a recommendation prior to the November Code Commission meeting.

Exemptions for regulations: Karen Perrine stated that, due to a 2011 amendment requiring that certain exempt regulations be filed with the registrar within 90 days of the effective date, several agencies believe that, if the 90 days has already passed, the regulation no longer qualifies for the exemption. Jane Chaffin stated that she believed this was an unintended consequence of the bill as the original requester was hoping to expedite the regulatory process. Mr. Lisk suggested convening a work group to discuss methods to address the issue, such as repealing the amendment or extending the timeframe.

Public Comment and Adjournment: Mr. Lisk opened the floor for public comment. Hearing no public comment, he adjourned the meeting at 1:05.

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