


<b>Commonwealth of Virginia</b>		
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<b>Administrative Law Advisory Committee</b>		

**SUMMARY**  
**Administrative Law Advisory Committee**  
**MSAPA Work Group**  
**October 8, 2014**  
**11:00 a.m.**  
**House Room 2**  
**Capitol Building**

**MEMBERS PRESENT:** Eric Page (work group chair), Tom Lisk (chair), Roger Chaffe, Elizabeth Andrews, Alex Skirpan, Kristina Stoney

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Andrew Kubincanek

**Welcome and call to order:** Eric Page called the meeting to order at 11:00 a.m.

**Discussion of Ex Parte Communications:** Mr. Page presented two options for an amendment; 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 he supported option two, and that option one could unduly complicate informal proceedings. Alex Skirpan stated that option two would be better received by agencies. Kristina Stoney stated that many agencies do not hold formal hearings, and that the final arbiter of a decision should be subject to ex parte communications rules. Mr. Page agreed and expressed support for option one. The group agreed to present both options to the full committee for further consideration. Ms. Stoney recommended technical changes.

**Discussion of Disqualification:** Mr. Page presented an amendment to § 2.2-4024 C of the Code of Virginia and two options for language creating § 2.2-4024.1. 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. Page expressed support for option one. Mr. Chaffe stated that, in his experience, bias is addressed voluntarily by the hearing officer or presiding officer. Ms. Stoney stated that she could cite specific instances where a presiding officer would not recuse himself despite a challenge to his impartiality. Mr. Skirpan stated that there should be a mechanism for removing an individual with clear bias. Kristi Wright and Ms.

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 Elizabeth Andrews  
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 Eric M. Page  
 Karen Perrine  
 Mike Quinan

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

Stoney recommended technical changes. The group voted four to two to recommend option one to the full committee.

**Discussion of Default:** Mr. Page presented two options for an amendment to § 2.2-4020 of the Code of Virginia regarding default by a non-appearing party, but stated that he believed the group already had a consensus on the option applying to both formal and informal proceedings. Mark Courtney of DPOR stated that his agency had provisions in place to address this issue. Mr. Skirpan noted that the language only applies unless otherwise provided for by law. The group agreed to recommend option one to the full committee.

**Public Comment and Adjournment:** Mr. Page opened the floor for public comment. Mr. Page thanked the work group for their input and adjourned the meeting at 12:00 p.m.

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