


Commonwealth of Virginia		
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Andrew Kubincanek, Program Coordinator		
Administrative Law Advisory Committee		

SUMMARY
Administrative Law Advisory Committee
June 10, 2015
11:30 a.m.
House Room 1
The Capitol, Richmond

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

MEMBERS ABSENT: Jeff Gore, Kristi Wright

STAFF PRESENT: Andrew Kubincanek

Welcome and call to order: Eric Page called the meeting to order at 11:30 a.m. Eric Page stated that the General Assembly had passed ALAC’s new sections on disqualification and default, but that the Code Commission had requested additional clarification on ex parte communications.

Ex Parte Communications: Mr. Page added that continued work on ex parte communications is important because the new language in 2.2-4024.1 lists ex parte communications as grounds for disqualification. Tom Lisk suggested removing the term advocate from the section, as advocate is not used in the VAPA. He suggested replacing the term with counsel or representative. Alex Skirpan asked why counsel would not be able to communicate on ministerial matters. The group agreed to remove “...who has not served as an investigator, prosecutor, or advocate (counsel) at any stage of the case, and...” from subsection C and combine subsections B and C. Elizabeth Andrews stated that contested case is not defined. She also asked that subsection D.2 be amended to indicate that such a memorandum shall be made part of the record. Mr. Page asked if there should be notice of ministerial communication, but the group determined subsection E already addressed this.

Reconsideration: Alex Skirpan stated that reconsideration can be hard enough to achieve as it is, and he would not want to limit it unintentionally with the suggested language in subsection b. Mr. Lisk stated that the agency could allow reconsideration in any case, but subsection b limits the request by an outside party. Ms. Andrews clarified that the section only applies to case

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decisions, not regulations; she also asked if reconsideration could be delegated. Mr. Lisk expressed concern about placing an undue burden on agencies.

Other Amendments: The work group briefly discussed a section on intervention and agreed to explore the issue further at the next meeting. Ms. Andrews expressed concern that intervention could make things less accessible for regulated entities by adding another formal process that would require a lawyer.

Public Comment and Adjournment: Mr. Page opened the floor for public comment. Hearing none, he adjourned the meeting at 12:05 p.m.

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