

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

**SUMMARY**  
**Administrative Law Advisory Committee**  
**June 10, 2015**  
**12:00 p.m.**  
**House Room 1**  
**The Capitol, Richmond**

**MEMBERS PRESENT:** Tom Lisk (chair), Elizabeth Andrews, Roger Chaffe, Eric Page, Karen Perrine, Alex Skirpan, Kristina Stoney, Brooks Smith, Edward Mullen

**MEMBERS ABSENT:** Jeff Gore, Kristi Wright, Mike Quinan

**STAFF PRESENT:** Andrew Kubincanek

**Welcome and call to order:** Tom Lisk called the meeting to order at 12:10 p.m. Mr. Lisk had previously contacted the Virginia State Bar and the Virginia Bar Association regarding topics for ALAC’s work plan. He informed the group that no changes were suggested by either organization.

**MSAPA Judicial work group update:** Eric Page updated the group on the MSAPA Judicial work group’s progress. The work group redrafted the section on ex parte communications and planned to share it with the full committee at the next meeting. The group also reviewed sections on reconsideration and intervention and resolved to study them further at the next meeting. Kristina Stoney asked if the section on intervention goes beyond what is already set out in the VAPA. Mr. Page clarified that if there is an issue common to third parties, they can intervene to delay the ruling and create judicial economy.

**APA Exemption Update:** Ms. Stoney stated that she has begun to develop clarifying language for the exemption in §2.2-4006.A.4.a , but that she would like to present the language to the Office of the Attorney General’s APA Committee, which has not yet met. She added that no formal opinions have been issued on the matter and expressed concern that the language could bring nondiscretionary regulations into the emergency process unintentionally.

**Executive Review work group update:** Karen Perrine introduced Noah Sullivan, the new deputy counsel for regulations in the Governor’s Office.

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**Guidance Document availability update:** Melanie West from the Department of Planning and Budget updated ALAC on efforts with the Registrar's Office to make guidance documents more consistent and more accessible, including by giving agencies the ability to upload URLs for guidance documents. She added that there is a training session on guidance documents scheduled for October. Roger Chaffe stated that it sounded like the situation was under control. Jane Chaffin suggested that ALAC could study the issue of incorporation by reference; in some cases, agencies may incorporate a guidance document by reference, then change it without notice. She added that the Code Commission will also be looking at the issue of incorporation by reference as part of the review of Code Commission regulations. Ms. Stoney stated that guidance documents can be very useful and cited the State Board of Elections' delegation document. Elizabeth Andrews agreed that internal guidance documents are helpful, but that it can be a problem to incorporate guidance documents that affect the regulated public by reference. Mr. Lisk suggested adding incorporation by reference as a subtopic under ALAC's guidance document study.

**Public Comment and Adjournment:** Mr. Lisk opened the floor for public comment. Hearing none, he adjourned the meeting.

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