


Commonwealth of Virginia		
Thomas A. Lisk, Chair		General Assembly Building 201 North 9th St., Second Floor Richmond, Virginia 23219 (Phone) 804-786-3591 (Fax) 804-692-0625 akubincanek@dls.virginia.gov <a href="http://codecommission.dls.virginia.gov/alac/alac.shtml">http://codecommission.dls.virginia.gov/alac/alac.shtml</a>
Andrew Kubincanek, Program Coordinator		
Administrative Law Advisory Committee		

**SUMMARY**  
**Administrative Law Advisory Committee**  
**August 26, 2016**  
**12 Noon**  
**House Room 2**  
**The Capitol, Richmond**

**MEMBERS PRESENT:** Tom Lisk (chair), Elizabeth Andrews (by telephone), Eric Page, Jeff Gore, Karen Perrine, Mike Quinan, Alex Skirpan, Kristi Wright, Roger Chaffe

**MEMBERS ABSENT:** Kristina Alexander, Brooks Smith, Edward Mullen

**STAFF PRESENT:** Jane Chaffin

**Welcome and call to order:** Tom Lisk called the meeting to order at 12:00 p.m.

**MSAPA Judicial/Hearing Officer Deskbook Work Group Update:** Eric Page stated that the work group met and is considering amendments to the Virginia Administrative Process Act (APA) allowing for protective orders for confidential documents placed in the record. The Revised Model State Administrative Procedures Act addresses this issue. The work group agreed to put forth a proposal for circulation and present it at the next ALAC meeting for action.

Mr. Page stated that ALAC produces a deskbook for hearing officers to use as guidelines in conducting formal hearings. The deskbook was last revised in 2013, and it needs to be updated to (i) reflect amendments to the Administrative Process Act, (ii) update citations, and (iii) add new resources to include for reference. The work group expects to have a draft prepared for the next ALAC meeting for approval, and then send it out for comments with a goal of presenting a final document for ALAC approval in November.

**Executive Review Process Work Group Update:** Tom Lisk advised that the work group met yesterday and approved four recommendations to present to ALAC as shown in the meeting materials. The first three recommendations are as follows: (i) codify Executive Branch review practices at the NOIRA stage to increase timeliness and transparency, (ii) codify timeframes for Department of Planning and Budget review where none exist or limit DPB review to certain stages of the process, and (iii) amend the APA to eliminate redundancies at the proposed stage

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 Alexander  
Kristi Wright

and authorize agencies to proceed with submitting regulatory packages within established timeframes. These three recommendations will be combined into one piece of legislation and presented to ALAC in September. If approved, the draft legislation will be disseminated to agencies for feedback. The fourth recommendation involves working with the current administration to ensure that future executive orders are consistent with the provisions of the APA with regard to fast-track regulations. This may be a separate piece of legislation, but would also be disseminated to agencies for feedback.

Mr. Lisk stated that a member of the public asked if ALAC had considered looking at putting additional timeframes for attorney general review. Although this had not been considered by the work group, the issue will be brought up at the September meeting.

**Guidance Document Filing Requirements Work Group Update:** Karen Perrine stated that the work group met and approved expanding the definition of agency to include nonregulatory agencies. Draft language is being circulated within workgroup. Once the language is finalized, it will be presented to ALAC for approval. Similar to the other ALAC proposals, it will be sent to agencies for comment, with a final document for ALAC approval and presentation to the Code Commission.

In crafting the amendment, Mr. Lisk requested that the workgroup consider whether the proposed amendment would have the unintended consequence of giving quasi-regulatory authority to agencies that have no rulemaking authority. Ms. Perrine stated that the workgroup will be glad to address that concern.

Jeff Gore stated that the Office of Children's Services is an example of an agency that has guidance documents but is not required to file under the current definition of "agency." The office publishes guidance for localities to follow. The workgroup will provide examples of other agencies that would be required to file guidance documents.

**Public Comment and Adjournment:** Mr. Lisk opened the floor for public comment. There being none, the meeting was adjourned at 12:22 p.m.

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 Alexander  
Kristi Wright