


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

MEETING SUMMARY
Administrative Law Advisory Committee
Thursday, May 23, 2013
12:00 PM
Capitol Building
House Room 1

MEMBERS PRESENT: Christopher R. Nolen (Chair), Elizabeth Andrews, Cindy Berndt, Roger L. Chaffe, Jeffrey S. Gore, Thomas A. Lisk, Eric M. Page, Karen Perrine, Brooks Smith

MEMBERS ABSENT: Katya Herndon, Michael Quinan, Alexander F. Skirpan, Jr.

STAFF PRESENT: Andrew Kubincanek

Call to order and Welcome: Christopher Nolen called the meeting to order at 12:10 PM. Mr. Nolen welcomed the committee and called attention to an article from *Virginia Lawyers Weekly* on Senate Bill 944, which relates to standards of review and judicial deference to agency decisions. At the request of Senator John S. Edwards, ALAC considered this issue in 2012. Though ALAC did not reach a consensus recommendation on this issue, Senator Edwards expressed gratitude for the committee’s assistance, particularly that of Elizabeth Andrews, in researching and drafting the bill.

Discussion of 2013 Work Plan: Mr. Nolen stated that the Code Commission had addressed its own work plan at the meeting on May 20, 2013, and the purpose of this meeting was for ALAC to do the same.

The committee first addressed continuing business. In 2012, the Supreme Court of Virginia had requested a periodic review of the Hearing Officer Deskbook. As two members of this work group were absent, dates for a meeting were to be set at a later time. Elizabeth Andrews then summarized the issues to be addressed by the Regulation Adoption Date work group.

Mr. Nolen relayed that the Code Commission had expressed an interest in hearing ALAC’s formal recommendations on the Model State Administrative Procedure Act. While the regulatory work group had completed its review of the MSAPA, formal recommendations were never fully communicated to the Code Commission. Eric Page stated that the judicial group had identified several sections of interest, but the group had not come to a consensus on changes. Mr. Nolen

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suggested reviewing the judicial section as a full committee and making recommendations to the Code Commission by year's end.

Mr. Nolen addressed guidance document accessibility and stated that the committee could likely take on one or two more issues for the year. Mr. Lisk offered to send a letter to the administrative law sections of the VBA and VSB, inviting input.

Karen Perrine raised a concern related to exemptions granted in § 2.2-4006 A 4 a of the Code of Virginia for regulations that must comply with a statutory change. Ms. Perrine stated that agencies should be encouraged to comply, but not lose the exemption entirely if they are unable to meet the 90-day compliance window. Mr. Nolen suggested discussing this issue in depth at the next meeting.

Public comment; adjournment: Mr. Nolen opened the floor for public comment. Hearing no public comment, Mr. Nolen introduced Andrew Kubincanek, the new staff member, and adjourned the meeting at 12:30 PM.

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