

OREGON OFFICE OF ADMINISTRATIVE HEARINGS OVERSIGHT COMMITTEE

	Oregon Office of Administrative Hearings Oversight Committee - Semi-Annual Meeting				
Date/Time:	June 15, 2022 9:00 am				
Location:	https://www.zoomgov.com/webinar/register/WN_44Bje9POQcKGwd-m9hGtlg (public registration link) Zoom platform				
Attendees:					
	Rep. Paul Holvey, Chair		Kevin Gleim		Sen. Janeen Sollman
	J. Kevin Shuba, Vice Ch		Rep. Ron Noble		Renee Stineman
	Denise Fjordbeck		Jeff Rhoades		Sen. Kim Thatcher
					Anne Friend
					Rebecca Nance

AGENDA

Topic	Desired Outcome	Time	Presenter
1. Welcome and introductions	Informational	9:00 am	Chair Holvey
2. Approval of March 2021 Minutes	Action	9:05 am	Chair Holvey
3. State of the OAH <i>Staffing, vacancies, challenges</i>	Information & Discussion	9:20 am	Interim Chief ALJ Jeff Rhoades
4. Caseload Update <i>Staff allocation, cross training</i>	Information & Discussion	9:35 am	John Lohuis & Sid Moore, OAH
5. Pandemic Challenges	Informational	10:05 am	Monica Whitaker, OAH
6. Committee Support and Structure <i>Bi-annual Meetings & Bi-annual Reports</i>	Informational	10:20 am	Rebecca Nance
7. Proposed Bylaw Changes	Input & Action	10:35 am	Jeff and Rebecca
8. Roundtable	Informational	10:50 am	Committee Members
9. Public Comment Period – 3 minutes each	Informational	11:05 am	Citizens
10. Adjourn		11:30 am	

ACTION ITEMS

Action	Assigned	Date Due	Completed

FUTURE MEETING TOPICS

Action	Assigned	Date Due	Completed

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MINUTES
Office of Administrative Hearings (OAH) Oversight Committee
June 15, 2022

Committee and Staff Present

Rep. Paul Holvey, Chair of the Committee
J. Kevin Shuba, Garrett, Hemann, Robertson, PC, Vice Chair (excused)
Kevin Gleim, Governor's Office
Sen. Kim Thatcher (excused)
Sen. Janeen Sollman
Rep. Ron Nobel
Denise Fjordbeck, Oregon Department of Justice
Renee Stineman, Oregon Department of Justice
Mr. Jeffrey Rhoades, Chief Administrative Law Judge, OAH
Robert Unger, Rep. Holvey Chief of Staff
Rema Bergin, Executive Assistant to Mr. Rhoades, OAH Staff

Other Attendees/Presenters

John Lohuis, Presiding Administrative Law Judge, OAH
Monica Whitaker, Presiding Administrative Law Judge
Sidney Moore, Presiding Administrative Law Judge
Rebecca Nance, OED
Anne Friend, OED

The meeting was called to order at 9:00 a.m. by Chair Paul Holvey with a welcome and introductions.

Approval of Minutes

Rep. Holvey called for the approval of the minutes, there being no objections minutes approved.

State of the Office of Administrative Hearings

Jeffrey Rhoades, Interim Chief Administrative Law Judge

Mr. Rhoades gave an overview of clearing the backlogs due to the pandemic and path to success of the Office of Administrative Hearings. The Presiding ALJs will update the committee on pressing issues and for UI working closely with OED on the backlog of cases. Mr. Rhoades stated the OAH has transitioned well through the pandemic with remote work being very successful. He thanked the OAH team for welcoming him as the new chief.

Rep. Holvey asked about the status of the chief as what is the timeline for appointment. Mr. Rhoades stated that the Governor's office is working on a permanent position. Rep. Holvey asked that Mr. Rhoades keep them updated on the position as the Oversight Committee makes a recommendation on the chief position.

Caseload Update

John Lohuis Presiding ALJ for the UI program gave a presentation on the UI caseload to the committee during the pandemic. Seven ALJs were hired, expanded times for hearings, hired back retirees, hired ten people on rotation basis from OED and by fall all will be on board. We will be conducting an additional 1,400 hearings per month while maintaining the current 1,100 hearings we currently conduct. By the second quarter of 2023 the backlog should be cleared. Rep. Holvey commented that he and Ways & Means Committee are keeping an eye on the caseload. With regards to the Paid Family Medical Leave Insurance Program he asked if those UI Judges would be transitioning to that program, Mr. Lohuis responded yes, they would.

Sidney Moore, Presiding ALJ for the DMV Program presented an update on the backlog of DMV cases since the pandemic. Most areas in the state are cleared of backlogs. Ms. Fjordbeck commented that this information is good for her to know as more appeals may be going to the Court of Appeals and the work load could increase for DOJ. Mr. Moore stated that hearings are usually in-person but was able to transition some of them to remote hearings. Rep. Holvey had hoped to get HB 3176 through an earlier session that allows the Chief ALJ to require hearings to be conducted remotely if risk to health or safety, which may have helped in the backlog of cases.

Monica Whitaker, Presiding ALJ for Agencies, Boards and Commissions (ABC cases) presented an overview of her program. Prior to the pandemic hearings were conducted in-person with a few by phone with all operations staff working in the office.

Now almost all are working remotely which was a smooth and quick transition. Files are all electronic and hearing are conducted with a secure virtual program Webex. There have been challenges and some reluctance from the parties but with testing/training prior to hearings more than 200 hearings have been held since 2020. Some of the challenges were equipment, technology, and VPN issues. With improved technology and Mr. Rhoades getting through equipment needed, all are continuing to work remotely which is also a big cost savings for agencies. There is no backlog of ABC hearings. Sen Sollman asked about boards having to use certified mail and if we are moving away from that. Ms. Whitaker responded that she is resuming talks with agencies looking into not using it and if a party does not have email, which is rare, then they will mail out. Sen. Sollman also asked about parties who may not have a computer. Ms. Whitaker stated that it has not come up, more of a problem is internet access. They have the option of going to a state agency to use a computer although it is not very often that this happens or they can call into the hearing. We try to accommodate everyone as best we can. Rep. Holvey asked how best to bring certified mail forward for the legislature. OAH to make a list of agencies required to use the service for policy meetings, legislature and Governor's Office to get this through if in statute. Committee will consider helping with proposal later in the fall. Ms. Whitaker responded she has a list of those agencies. Rep. Holvey asked that we check with those agencies on reason why they would need certified mail. Will discuss with Mr. Rhoades.

Committee Support and Structure

Rebecca Nance gave an overview of the committee and chief's responsibility. Committee is there for guidance for the Chief ALJ and OAH. The chief is the one responsible to be in contact with the committee to keep it going, with scheduling meetings, staffing and notices. Meetings should be held twice a year, with minutes to committee two weeks before next meeting for comments or edits. A report should be produced in between meetings on the state of the OAH. May want to amend bylaws. Open to suggestions.

Bylaws

Rep. Holvey stated that each Chief ALJ is different and not ready to adopt them yet and the committee needs statutory clarification without involvement of OED. Requests meetings twice a year in late August early September for development for next session and in January for concepts. Also a notebook/resource guide book for committee members. Meetings can be called at other times if needed. Insulate OAH from conflict in statute with OED which is unclear, need statutory information on bylaws to adopt new bylaws. Rep. Holvey and Mr. Rhoades to have a conversation regarding the bylaws.

Mr. Rhoades stated that OAH contracts with OED for services and serve approximately 70 additional agencies and it makes sense for the OAH and to prepare legislative concepts and staff the committee.

Public Comments

None

Action Items

Rep. Holvey asked that committee members get back to him with their input to address statute and bylaws in hope of proposal clarification. He will work with Mr. Rhoades on bylaws and to be ready for next legislative session. He stressed the importance of having a quorum for the committee meetings in order to get the work completed.

Rep. Holvey requested that OAH send reports ahead of next meeting for better discussion on caseload and other data which will also enable the committee to help the OAH.

Ms. Bergin to schedule next meeting for the last week in August or through mid-September, send out Doodle poll. Create a notebook/guide book for the committee.

Adjournment

There being no further business meeting adjourned at 10:34 am.

**OVERSIGHT COMMITTEE
OFFICE OF ADMINISTRATIVE HEARINGS
BY-LAWS**

Article 1. Name, Authority, Membership, Terms, Purpose, Address

Section 1. *Name of the Committee*

This committee shall be known as the Office of Administrative Hearings, Oversight Committee.

Section 2. *Legal Authority for the Committee*

The Oversight Committee is organized in accordance with OR Laws 1999, ch 849, section 21.

Section 3. *Membership of the Committee*

The Committee shall be composed of the following members: two Senators appointed by the President of the Senate; two Representatives appointed by the Speaker of the House; two members appointed by the Governor, one of whom is an active member of the Oregon State Bar with experience in representing parties who are not agencies in contested case hearings; two members appointed by the Attorney General, and the Chief Administrative Law Judge serving *ex officio*.

Section 4. *Terms of Membership*

- A. The term of a legislative member shall be two years. If a legislative member ceases to be a senator or representative during the person's term on the Committee, that person may continue to serve the balance of the term.

- B. The term of all appointed members shall be four years. Appointed members may be reappointed. If a vacancy occurs prior to the expiration of a member's term, the appointing official shall appoint a new member to serve the remainder of the term. An appointed member may be removed from the Committee at any time by the appointing official.

Section 5. *Duties of the Committee*

The Committee shall study the implementation and operation of the Office of Administrative Hearings, make any recommendations to the Governor and Legislative Assembly to increase the effectiveness, fairness and efficiency of the OAH operations, make any recommendations for additional legislation governing the operations of the OAH, and conduct such other studies as necessary to accomplish the purposes of the Committee.

Proposed Amendments to By-laws 06152022

Section 6. *Committee Address*

The official office location and mailing address of the Committee shall be:

Office of Administrative Hearings,
Oversight Committee
Administrative Offices
4600 25th Ave. NE, Suite 140
Salem, OR 97301
Phone Number: 503-947-1353

Mailing address: PO Box 14020, Salem,
OR 97309-4020

Article 2. *Officers, Terms of Office, and Elections*

Section 1. *Officers*

The officers of the Oversight Committee shall be the Chairperson and Vice Chairperson

Section 2. *Terms of Office*

There shall be no limit to the number of terms of office the Chairperson and Vice Chairperson may serve.

Sections. *Election of Officers*

Elections of the Chairperson and Vice Chairperson shall be held at the first meeting of the Committee. Elections shall be held every two years thereafter at the first meeting of the year.

Article 3. *Meeting Procedures, Voting Rights, and Quorum*

Section 1. *Meeting Procedures*

- A. The Committee shall meet at such times and places as determined by the Chairperson.
- B. The Chairperson may from time to time request an emergency meeting. The provisions of Article 3 shall govern the conduct of these meetings.
- C. The Chairperson or Vice Chairperson, at the Chairperson's request, shall preside at all meetings of the Committee.
- D. Public notice of all regular meetings of the Committee shall be given at least 48 hours prior to the meeting and all meetings shall be held in accordance with Oregon's Public Meetings Law, ORS 192.610 to 192.690. Meeting notice will be posted to the state transparency website. Notice shall be mailed, faxed, e-mailed, or delivered personally to each member of the Committee.

Proposed Amendments to By-laws 06152022

Section 2. *Voting Rights*

Each member of the Committee who is present shall cast one vote on any question. The Chief Administrative Law Judge may vote only when the votes of the other members are equally divided. A vote of the majority of members present (50 percent plus one, excluding the Chief Administrative Law Judge) shall be sufficient to pass a motion, providing a quorum is present.

Article 4. General Provisions

Section 1. *Record Keeping and Administrative Support*

The Chief Administrative Law Judge is responsible for providing committee staff and administrative support to the committee. Written minutes shall be kept. These minutes shall record all members present, motions, proposals, resolutions, and measures proposed and their dispositions, the result of all votes, and the substance of any matter discussed.

Section 2. *Absenteeism*

If a Committee member cannot attend a meeting, the Chairperson should be notified as soon as possible before the meeting. Three consecutive absences without notice shall be deemed to be a resignation.

Section 3. *Amendments*

These By-laws may be amended or repealed and new by-laws enacted by two-thirds vote of the Committee.

Office of Administrative Hearings Oversight Committee Roster

Kevin Gleim
Governor's Office
900 Court Street NE, Room 160
Salem, OR 97301
Governor Appointment
Kevin.Gleim@oregon.gov
(503) 378-6246

J. Kevin Shuba, Vice Chair
Garrett Law Firm
P.O. Box 749
Salem, OR 97308
Governor Appointment
jkshuba@ghrlawyers.com
503-581-1501

Janeen Sollman
State Senator State Senator
900 Court Street NE, S-207
Salem, OR 97301 Salem, OR 97301
Senate President Appointment
sen.janeensollman@oregonlegislature.gov
503-986-1715

Kim Thatcher
State Senator
900 Court Street NE, S-307
Salem, OR 97301
Senate President Appointment
Sen.KimThatcher@oregonlegislature.gov
503-986-1713

Paul Holvey, Chair
State Representative
900 Court Street NE, H-277
Salem, OR 97301
House Speaker Appointment
Rep.PaulHolvey@state.or.us
503-986-1408

Ron Noble
State Representative
900 Court Street NE, H-380
Salem, OR 97301
House Speaker Appointment
Rep.RonNoble@oregonlegislature.gov
503-986-1424

Denise Fjordbeck
Department of Justice
1162 Court Street NE
Salem, OR 97301
Attorney General Appointment
denise.fjordbeck@state.or.us
503-378-5648

Renee Stineman
Department of Justice
1162 Court Street NE
Salem, OR 97301
Attorney General Appointment
Renee.Stineman@state.or.us
971-673-5021

Jeffrey Rhoades
Interim Chief Administrative Law Judge
Office of Administrative Hearings
P.O. Box 14020, Salem, OR 97309
Ex Officio Member
503-947-1918

