

Article 6 Issue
Office of Administrative Hearings and ALJs
State Statutes

Some of the states which have established an Office of Administrative Hearings or ALJ Division or the like:

- Arizona
- Colorado
- District of Columbia
- Florida
- Georgia
- Kansas
- Louisiana
- Maryland
- Massachusetts
- Minnesota
- Missouri
- New Jersey
- North Carolina
- North Dakota
- Oregon
- South Carolina
- South Dakota
- Tennessee
- Texas
- Washington
- Wisconsin

States/Statute Language describing how director is placed into office and qualifications necessary:

- Arizona
 - The governor shall appoint the director. At a minimum, the director shall have the experience necessary for appointment as an administrative law judge. The director also shall possess supervisory, management and administrative skills, as well as knowledge and experience relating to administrative law.
- District of Columbia
 - There shall be an Executive Director of the Office. The Executive Director shall be responsible for the administration of the Office, subject to the supervision of the Chief Administrative Law Judge.

- The Executive Director shall be appointed by the Chief Administrative Law Judge as a statutory employee in the Excepted Service pursuant to [§ 1- 609.08](#), and shall serve at the pleasure of the Chief Administrative Law Judge. In making the appointment, the Chief Administrative Law Judge shall consider experience and special training in administrative, operational, and managerial positions and familiarity with court and administrative hearing procedures and operations. The Executive Director need not be an attorney and may not concurrently hold an appointment as an Administrative Law Judge appointed under the authority of [§ 2- 1831.08\(b\)](#).
- The Executive Director shall be a resident of the District of Columbia or become a resident not more than 180 days after the date of appointment, and shall remain a resident, unless temporarily or permanently exempted from these requirements by the Mayor for good cause.
- Florida
 - The Division of Administrative Hearings within the Department of Management Services shall be headed by a director who shall be appointed by the Administration Commission and confirmed by the Senate. The director, who shall also serve as the chief administrative law judge, and any deputy chief administrative law judge must possess the same minimum qualifications as the administrative law judges employed by the division.
- North Dakota
 - The office is under the direction of a director of administrative hearings who must be free of any association that would impair the director's ability to function officially in a fair and objective manner. The director must be an attorney at law in good standing, admitted to the bar in this state, and currently licensed by the state board of law examiners. The director of administrative hearings must be appointed by the governor and confirmed by the senate and shall hold office for a term of six years, the term beginning July first of the year of appointment and ending June thirtieth of the sixth calendar year after appointment.

States/Statute Language establishing specific powers and duties of directors:

- Arizona
 - The director shall:

- 1. Serve as the chief administrative law judge of the office.
- 2. Make and execute the contracts and other instruments that are necessary to perform the director's duties.
- 3. Hire employees, including full-time administrative law judges, and contract for special services, including temporary administrative law judges, that are necessary to carry out this article. An administrative law judge employed or contracted by the office shall have graduated from an accredited college of law or shall have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to in the office.
- 4. Make rules that are necessary to carry out this article, including rules governing ex parte communications in contested cases.
- 5. Submit a report to the governor, speaker of the house of representatives and president of the senate by November 1 of each year describing the activities and accomplishments of the office. The director's annual report shall include a summary of the extent and effect of agencies' utilization of administrative law judges, court reporters and other personnel in proceedings under this article and recommendations for changes or improvements in the administrative procedure act or any agency's practice or policy with respect to the administrative procedure act.
- 6. Secure, compile and maintain all decisions, opinions or reports of administrative law judges issued pursuant to this article and the reference materials and supporting information that may be appropriate.
- 7. Develop, implement and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this article. the program shall require that an administrative law judge receive training in the technical and subject matter areas of the sections to which the administrative law judge is assigned.
- 8. Develop, implement and maintain a program of evaluation to aid the director in the evaluation of administrative law judges appointed pursuant to this article that includes comments received from the public.

9. Annually report the following to the governor, the president of the senate and the speaker of the house of representatives by December 1 for the prior fiscal year:

- (a) The number of administrative law judge decisions rejected or modified by agency heads.
- (b) By category, the number and disposition of motions filed pursuant to [§ 41-1092.07, subsection A](#) to disqualify office administrative law judges for bias, prejudice, personal interest or lack of expertise.
- (c) By agency, the number and type of violations of [§ 41-1009](#).

- 10. Schedule hearings pursuant to [§ 41-1092.05](#) upon the request of an agency or the filing of a notice of appeal pursuant to [§ 41-1092.03](#).

- Florida

- The director has the right to appeal actions by the Executive Office of the Governor that affect amendments to the division's approved operating budget or any personnel actions pursuant to chapter 216 to the Administration Commission, which shall decide such issue by majority vote. The appropriations committees may advise the Administration Commission on the issue. If the President of the Senate and the Speaker of the House of Representatives object in writing to the effects of the appeal, the appeal may be affirmed by the affirmative vote of two-thirds of the commission members present.

- Louisiana

- The director of the division shall employ the administrative law judges for the division

- New Jersey

- The Director and Chief Administrative Law Judge of the Office of Administrative Law shall:
 - a. Administer and cause the work of the office to be performed in such manner and pursuant to such program as may be required or appropriate;
 - b. Organize and reorganize the office, and establish such bureaus as may be required or appropriate;
 - c. Except as otherwise provided in subsections l. and t., below, appoint, pursuant to the provisions of Title 11A of the New Jersey Statutes, such clerical assistants and other personnel as may be required for the conduct of the office;

- d. Assign and reassign personnel to employment within the office;
- e. Develop uniform standards, rules of evidence, and procedures, including but not limited to standards for determining whether a summary or plenary hearing should be held to regulate the conduct of contested cases and the rendering of administrative adjudications;
- f. Promulgate and enforce such rules for the prompt implementation and coordinated administration of the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) as may be required or appropriate;
- g. Administer and supervise the procedures relating to the conduct of contested cases and the making of administrative adjudications, as defined by section 2 of P.L.1968, c. 410 (C.52:14B-2);
- h. Advise agencies concerning their obligations under the Administrative Procedure Act, subject to the provisions of subsections b. and e. of section 4 of P.L.1944, c. 20 (C.52:17A-4);
- i. Assist agencies in the preparation, consideration, publication and interpretation of administrative rules required or appropriate pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.);
- j. Employ the services of the several agencies and of the employees thereof in such manner and to such extent as may be agreed upon by the director and the chief executive officer of such agency;
- k. Have access to information concerning the several agencies to assure that they properly promulgate all rules required by law;
- l. Assign permanent administrative law judges at supervisory and other levels who are qualified in the field of administrative law or in subject matter relating to the hearing functions of a State agency.
- m. Appoint additional administrative law judges, qualified in the field of administrative law or in a subject matter relating to the hearing functions of a State agency, on a temporary or case basis as may be necessary during emergency or unusual situations for the proper performance of the duties of the office, pursuant to a reasonable fee schedule established in advance by the director. Administrative law judges appointed pursuant to this procedure shall have the same qualifications for appointment as permanent administrative law judges;
- n. Assign administrative law judges to conduct contested cases as required by sections 9 and 10 of P.L.1968, c. 410 (C.52:14B-9 and

52:14B-10). Proceedings shall be scheduled for suitable locations, either at the offices of the Office of Administrative Law or elsewhere in the State, taking into consideration the convenience of the witnesses and parties, as well as the nature of the cases and proceedings;

o. Assign an administrative law judge or other personnel, if so requested by the head of an agency and if the director deems appropriate, to any agency to conduct or assist in administrative duties and proceedings other than those related to contested cases or administrative adjudications, including but not limited to rule-making and investigative hearings;

p. Assign an administrative law judge not engaged in the conduct of contested cases to perform other duties vested in or required of the office;

q. Secure, compile and maintain all reports of administrative law judges issued pursuant to this act, and such reference materials and supporting information as may be appropriate;

r. Develop and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this act;

s. Develop and implement a program of judicial evaluation to aid himself in the performance of his duties, and to assist in the making of reappointments under section 4 of P.L.1978, c. 67 (C.52:14F-4). This program of evaluation shall focus on three areas of judicial performance: competence, productivity, and demeanor. It shall include consideration of: industry and promptness in adhering to schedules, making rulings and rendering decisions; tolerance, courtesy, patience, attentiveness, and self-control in dealing with litigants, witnesses and counsel, and in presiding over contested cases; legal skills and knowledge of the law and new legal developments; analytical talents and writing abilities; settlement skills; quantity, nature and quality of caseload disposition; impartiality and conscientiousness. The director shall develop standards and procedures for this program, which shall include taking comments from selected litigants and lawyers who have appeared before a judge. The methods used by the judge but not the result arrived at by the judge in any case may be used in evaluating a judge. Before implementing any action based on the findings of the evaluation program, the director shall discuss the findings and the proposed action with the affected judge. The

evaluation by the director and supporting data shall be submitted to the Governor at least 90 days before the expiration of any term.

These documents shall remain confidential and shall be exempted from the requirements of P.L.1963, c. 73 (C.47:1A-1 et seq.);

t. Promulgate and enforce rules for reasonable sanctions, including assessments of costs and attorneys' fees which may be imposed on a party, and attorney or other representative of a party who, without just excuse, fails to comply with any procedural order or with any standard or rule applying to a contested case and including the imposition of a fine not to exceed \$1,000.00 for misconduct which obstructs or tends to obstruct the conduct of contested cases;

u. Have power in connection with contested case hearings (1) to administer oaths to any and all persons, (2) to compel by subpoena the attendance of witnesses and the production of books, records, accounts, papers, and documents of any person or persons, (3) to entertain objections to subpoenas, and (4) to rule upon objections to subpoenas except, that any orders of administrative law judges regarding these objections may be reviewed by the agency head before the completion of the contested case in accordance with procedural rules, adopted by the Director and Chief Administrative Law Judge of the Office of Administrative Law. Misconduct by any party, attorney or representative of a party or witness which obstructs or tends to obstruct the conduct of a contested case or the failure of any witness, when duly subpoenaed to attend, give testimony or produce any record, or the failure to pay any sanction assessed pursuant to subsection t. of this section, shall be punishable by the Superior Court in the same manner as such failure is punishable by such court in a case pending therein; and

v. Assign any judge recalled pursuant to section 4 of P.L.1978, c. 67 (C.52:14F-4) and fix the per diem allowance.

States/Statue language describing how Chief ALJs are placed into office and necessary qualifications:

- District of Columbia
 - o The Office shall be headed by a Chief Administrative Law Judge who shall be accountable and responsible for the fairness, impartiality, effectiveness, and efficiency of the Office.
 - o The Chief Administrative Law Judge shall:

- (1) Be appointed by the Mayor, with the advice and consent of the Council;
 - (2) Serve a 6-year term and be eligible for reappointment by the Mayor, with the advice and consent of the Council, for a maximum of 2 terms as Chief Administrative Law Judge;
 - (3) Take an oath of office, as required by law, prior to the commencement of duties;
 - (4) Devote full-time to the duties of the Office and shall not engage in the practice of law, or perform any other duties that are inconsistent with the duties and responsibilities of the Chief Administrative Law Judge;
 - (5) Be a member in good standing of the District of Columbia Bar at the time he or she assumes office and throughout his or her tenure as Chief Administrative Law Judge;
 - (6) Be a resident of the District of Columbia or become a resident of the District of Columbia within 180 days of his or her taking office;
 - (7) Not be subject to removal from office before expiration of his or her term, except upon a written finding of the Mayor of good cause, subject to the right of appeal;
 - (8) Have the powers and duties specified in this chapter, and the powers, privileges, and immunities of an Administrative Law Judge; and
 - (9) Be appointed to the Excepted Service as a statutory officeholder
- Georgia
 - The head of the office shall be the chief state administrative law judge who shall be appointed by the Governor, shall serve a term of six years, shall be eligible for reappointment, and may be removed by the Governor for cause. The chief state administrative law judge shall have been admitted to the practice of law in this state for a period of at least five years. The chief state administrative law judge shall be in the unclassified service of the state merit system and shall receive a salary to be determined by the Governor. All successors shall be appointed in the same manner as the original appointment and vacancies in office shall be filled in the same manner for the remainder of the unexpired term.
- Maryland

- The Office is headed by a Chief Administrative Law Judge appointed by the Governor with the advice and consent of the Senate.
- Massachusetts
 - There shall be within the executive office for administration and finance a division of administrative law appeals under the direction of a chief administrative magistrate who shall be appointed by the secretary of the executive office for administration and finance with the approval of the governor. Said chief administrative magistrate, shall be a resident of the commonwealth at the time of his appointment, shall be a person with substantial experience as a trial attorney, shall devote full time to the duties of his office, and shall have no financial interest in any provider of services on which he shall make a rate determination.
- Minnesota
 - **Chief administrative law judge.** The office shall be under the direction of a chief administrative law judge who shall be learned in the law and appointed by the governor, with the advice and consent of the senate, for a term ending on June 30 of the sixth calendar year after appointment. Senate confirmation of the chief administrative law judge shall be as provided by [section 15.066](#).
- North Carolina
 - The Chief Administrative Law Judge of the Office of Administrative Hearings shall be appointed by the Chief Justice for a term of office of four years. The first Chief Administrative Law Judge shall be appointed as soon as practicable for a term to begin on the day of his appointment and to end on June 30, 1989. Successors to the first Chief Administrative Law Judge shall be appointed for a term to begin on July 1 of the year the preceding term ends and to end on June 30 four years later. A Chief Administrative Law Judge may continue to serve beyond his term until his successor is duly appointed and sworn, but any holdover shall not affect the expiration date of the succeeding term.
- Oregon
 - The Director of the Employment Department shall employ a person to serve as chief administrative law judge for the Office of Administrative Hearings. The director shall consider recommendations by the Office of Administrative Hearings Oversight Committee in hiring a chief administrative law judge. The person employed to serve as chief administrative law judge

must be an active member of the Oregon State Bar. The chief administrative law judge has all the powers necessary and convenient to organize and manage the office. Subject to the State Personnel Relations Law, the chief administrative law judge shall employ all persons necessary for the administration of the office, prescribe the duties of those employees and fix their compensation. The chief administrative law judge shall serve for a term of four years. Notwithstanding [ORS 236.140](#), the chief administrative law judge may be removed during a term only for inefficiency, incompetence, neglect of duty, malfeasance in office, unfitness to render effective service or failure to continue to meet the criteria for appointment.

- South Dakota
 - The Governor shall appoint a chief hearing examiner. The person appointed shall, as a condition of appointment, be admitted to practice law in the State of South Dakota.
- Texas
 - The office is under the direction of a chief administrative law judge appointed by the governor for a two-year term. The chief administrative law judge is eligible for reappointment.
 - To be eligible for appointment as chief administrative law judge, an individual must:
 - (1) be licensed to practice law in this state; and
 - (2) for at least five years, have:
 - (A) practiced administrative law;
 - (B) conducted administrative hearings under Chapter 2001; or
 - (C) engaged in a combination of the two activities listed in Paragraphs (A) and (B).
- Washington
 - The office shall be under the direction of a chief administrative law judge, appointed by the governor with the advice and consent of the senate, for a term of five years. The person appointed is required, as a condition of appointment, to be admitted to practice law in the state of Washington, and may be removed for cause.

States/Statute Language establishing specific powers and duties of Chief ALJs:

- District of Columbia
 - The Chief Administrative Law Judge shall:

- (1) Supervise the Office of Administrative Hearings;
- (2) Oversee and administer assignment of Administrative Law Judges to preside over adjudicated cases heard by the Office;
- (3) To the extent he or she deems appropriate, establish internal classifications for case assignment and management on the basis of subject matter, expertise, case complexity, and other appropriate criteria;
- (4) Establish standard and specialized training programs for Administrative Law Judges;
- (5) Appoint, in accordance with applicable law and available funding, promote, discipline, and remove staff employed by the Office, other than Administrative Law Judges;
- (6) Provide for, or require completion of, continuing education programs for Administrative Law Judges and other employees of the Office deemed to be necessary or desirable;
- (7) Develop and implement rules of procedure and practice for cases before the Office and approve the use of forms and documents that will assist in managing cases coming before the Office;
- (8) Monitor and supervise the quality of administrative adjudication;
- (9) Develop and implement a code of professional responsibility for Administrative Law Judges;
- (10) Develop and implement annual performance standards for the management and disposition of cases assigned to Administrative Law Judges, which shall take account of subject matter and case complexity;
- (11) Apply a pay scale and retention allowances equivalent to those that are available to Legal Service and Senior Executive Attorney Service attorneys in a manner designed to attract highly capable public and private sector attorneys to become Administrative Law Judges in the Office;
- (12) Issue and transmit to the Mayor and the Council, not later than 90 days after the close of the first complete fiscal year of the Office's operation and each fiscal year thereafter, an annual report on the operations of the Office. The annual report shall include performance evaluations and case

statistics for each Administrative Law Judge from the filing of a case to disposition.

- (b) The Chief Administrative Law Judge may:
 - (1) Serve as an Administrative Law Judge in any case;
 - (2) Furnish Administrative Law Judges on a reimbursable basis to District of Columbia or other government entities not covered by this unit;
 - (3) Accept and expend funds, grants, bequests, and gifts on behalf of the Office, and accept the donation of services that are related to the purpose of the Office unless such a donation would create a conflict of interest in violation of applicable law;
 - (4) Enter into agreements and contracts under law with any public or private entities or educational institutions;
 - (5) Develop and maintain a program for student interns and law clerks to work in the Office;
 - (6) Recommend to the Commission the proposal and promulgation of rules regulating the appointment, reappointment, discipline, and removal of Administrative Law Judges;
 - (7) Adopt, in accordance with [§ 2-505](#), rules that are necessary or desirable to facilitate implementation of this unit, other than rules regulating the appointment, reappointment, discipline, and removal of Administrative Law Judges promulgated pursuant to [§ 2-1831.11](#);
 - (8) Assess reasonable filing, copying, and other fees, and adopt rules for waiving or reducing fees for parties who, after careful review, are determined by the Office to be incapable of paying full fees; provided, that filing fees permitted under this subsection shall not be charged to the District of Columbia government or the United States;
 - (9) Collect and retain a portion of revenue paid in connection with any adjudicated case, such revenue to be maintained by the Chief Financial Officer in a non-lapsing account to fund the administrative adjudication services provided by the Office, except that such funds shall only be collected and maintained in a manner consistent with safeguarding the integrity and independence of the decisional process in matters pending before the Office;
 - (10) Retain outside counsel, other than the Corporation

Counsel, to represent the Office or any employee of the Office in his or her official capacity in actual or anticipated litigation;

(11) Implement a program for ongoing quality assurance and performance review; provided, that no such review shall require that an outcome in any case be altered;

(12) Issue and implement procedures, practices, and guidelines relating to the operations or responsibilities of the Office; and

(13) Exercise any other lawful authority to effectuate the purposes of this chapter.

- Georgia

- The chief state administrative law judge shall promulgate rules and regulations and establish procedures to carry out the provisions of this article.
- The chief state administrative law judge shall have the power to employ clerical personnel and court reporters necessary to assist in the performance of his or her duties.
- The chief state administrative law judge shall have the power to employ full-time assistant administrative law judges who shall exercise the powers conferred upon the chief state administrative law judge in all administrative cases assigned to them. Each assistant administrative law judge shall have been admitted to the practice of law in this state for a period of at least three years. The chief state administrative law judge may establish different levels of administrative law judge positions and the compensation for such positions shall be determined by the chief state administrative law judge.
- The chief state administrative law judge may appoint a special assistant administrative law judge on a temporary or case basis as may be necessary for the proper performance of the duties of the office, pursuant to a fee schedule established in advance by the chief state administrative law judge. A special assistant administrative law judge shall have the same qualifications and authority as a full-time assistant administrative law judge.
- The chief state administrative law judge may designate in writing a qualified full-time employee of an agency other than an agency directly connected with the proceeding to conduct a specified hearing, but such appointment shall only be with the prior consent of the employee's agency. Such employee shall then serve as a

special designated assistant administrative law judge for the purposes of the specific hearing and shall not be entitled to any additional pay for this service.

- When the character of the hearing requires utilization of a hearing officer with special skill and technical expertise in the field, the chief state administrative law judge may so certify in writing and appoint as a special lay assistant administrative law judge a person who is not a member of the bar of this state or otherwise not qualified under this Code section. Such appointment shall specify in writing the reasons such special skill is required and the qualifications of the appointed individual.
- The chief state administrative law judge may designate a class of hearings for which individuals with the necessary skill and training need not meet the qualifications of paragraphs (1) through (4) of this subsection. These full-time associate administrative law judges shall exercise the powers conferred upon the chief state administrative judge in the class of administrative cases assigned to them. The chief state administrative law judge shall determine the compensation for such positions.
- The chief state administrative law judge and any administrative law judge employed on a full-time basis: (1) shall not otherwise engage in the practice of law; and (2) shall not, except in the performance of his or her duties in a contested case, render legal advice or assistance to any state board, bureau, commission, department, agency, or officer.

- Maryland

- The Chief Administrative Law Judge shall:
 - (1) supervise the Office of Administrative Hearings;
 - (2) establish qualifications for administrative law judges;
 - (3) appoint and remove administrative law judges in accordance with [§ 9-1605](#) of this subtitle;
 - (4) assign administrative law judges to conduct hearings in contested cases;
 - (5) if necessary, establish classifications for case assignment on the basis of subject matter, expertise, and case complexity;
 - (6) establish and implement standard and specialized training programs and provide materials for administrative law judges;

- (7) provide and coordinate continuing education programs and services for administrative law judges, including research, technical assistance, technical and professional publications, compiling and disseminating information, and advise of changes in the law relative to their duties;
 - (8) develop model rules of procedure and other guidelines for administrative hearings;
 - (9) develop a code of professional responsibility for administrative law judges; and
 - (10) monitor the quality of State administrative hearings.
 - The Chief Administrative Law Judge may:
 - (i) serve as an administrative law judge in a contested case;
 - (ii) furnish administrative law judges on a contractual basis to other governmental entities;
 - (iii) accept and expend funds, grants, and gifts and accept services from any public or private source;
 - (iv) enter into agreements and contracts with any public or private agencies or educational institutions;
 - (v) adopt regulations to implement this subtitle; and
 - (vi) assess fees to cover administrative expenses
- Massachusetts
 - It shall be the responsibility of said chief administrative magistrate to organize his division to provide speedy and fair disposition of all appeals and to establish policies that will encourage and aid parties in limiting and consolidating issues and pleadings to the superior court. Subject to appropriation he may employ such persons as may be required to discharge the responsibilities of the division, including administrative magistrates who shall be members of the bar of the commonwealth and who shall have had trial experience. Administrative magistrates responsible for adjudicating public construction contract disputes pursuant to section thirty-nine Q of chapter thirty shall in addition have had prior experience in construction law; such administrative magistrates may be hired either as regular employees of the division or on a consultant basis.
- Minnesota
 - The chief administrative law judge may hear cases and shall appoint additional administrative law judges and compensation judges to serve in the office as necessary to fulfill the duties prescribed in chapters 14 and 176. The chief administrative law

judge may delegate to a subordinate employee the exercise of a specified statutory power or duty as deemed advisable, subject to the control of the chief administrative law judge. Every delegation must be by written order filed with the secretary of state.

- New Jersey

- The Director and Chief Administrative Law Judge of the Office of Administrative Law shall:
 - a. Administer and cause the work of the office to be performed in such manner and pursuant to such program as may be required or appropriate;
 - b. Organize and reorganize the office, and establish such bureaus as may be required or appropriate;
 - c. Except as otherwise provided in subsections l. and t., below, appoint, pursuant to the provisions of Title 11A of the New Jersey Statutes, such clerical assistants and other personnel as may be required for the conduct of the office;
 - d. Assign and reassign personnel to employment within the office;
 - e. Develop uniform standards, rules of evidence, and procedures, including but not limited to standards for determining whether a summary or plenary hearing should be held to regulate the conduct of contested cases and the rendering of administrative adjudications;
 - f. Promulgate and enforce such rules for the prompt implementation and coordinated administration of the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) as may be required or appropriate;
 - g. Administer and supervise the procedures relating to the conduct of contested cases and the making of administrative adjudications, as defined by section 2 of P.L.1968, c. 410 (C.52:14B-2);
 - h. Advise agencies concerning their obligations under the Administrative Procedure Act, subject to the provisions of subsections b. and e. of section 4 of P.L.1944, c. 20 (C.52:17A-4);
 - i. Assist agencies in the preparation, consideration, publication and interpretation of administrative rules required or appropriate pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.);
 - j. Employ the services of the several agencies and of the employees thereof in such manner and to such extent as may be agreed upon by the director and the chief executive officer of such agency;
 - k. Have access to information concerning the several agencies to

assure that they properly promulgate all rules required by law;

l. Assign permanent administrative law judges at supervisory and other levels who are qualified in the field of administrative law or in subject matter relating to the hearing functions of a State agency.

m. Appoint additional administrative law judges, qualified in the field of administrative law or in a subject matter relating to the hearing functions of a State agency, on a temporary or case basis as may be necessary during emergency or unusual situations for the proper performance of the duties of the office, pursuant to a reasonable fee schedule established in advance by the director. Administrative law judges appointed pursuant to this procedure shall have the same qualifications for appointment as permanent administrative law judges;

n. Assign administrative law judges to conduct contested cases as required by sections 9 and 10 of P.L.1968, c. 410 (C.52:14B-9 and 52:14B-10). Proceedings shall be scheduled for suitable locations, either at the offices of the Office of Administrative Law or elsewhere in the State, taking into consideration the convenience of the witnesses and parties, as well as the nature of the cases and proceedings;

o. Assign an administrative law judge or other personnel, if so requested by the head of an agency and if the director deems appropriate, to any agency to conduct or assist in administrative duties and proceedings other than those related to contested cases or administrative adjudications, including but not limited to rule-making and investigative hearings;

p. Assign an administrative law judge not engaged in the conduct of contested cases to perform other duties vested in or required of the office;

q. Secure, compile and maintain all reports of administrative law judges issued pursuant to this act, and such reference materials and supporting information as may be appropriate;

r. Develop and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this act;

s. Develop and implement a program of judicial evaluation to aid himself in the performance of his duties, and to assist in the making of reappointments under section 4 of P.L.1978, c. 67 (C.52:14F-4). This program of evaluation shall focus on three

areas of judicial performance: competence, productivity, and demeanor. It shall include consideration of: industry and promptness in adhering to schedules, making rulings and rendering decisions; tolerance, courtesy, patience, attentiveness, and self-control in dealing with litigants, witnesses and counsel, and in presiding over contested cases; legal skills and knowledge of the law and new legal developments; analytical talents and writing abilities; settlement skills; quantity, nature and quality of caseload disposition; impartiality and conscientiousness. The director shall develop standards and procedures for this program, which shall include taking comments from selected litigants and lawyers who have appeared before a judge. The methods used by the judge but not the result arrived at by the judge in any case may be used in evaluating a judge. Before implementing any action based on the findings of the evaluation program, the director shall discuss the findings and the proposed action with the affected judge. The evaluation by the director and supporting data shall be submitted to the Governor at least 90 days before the expiration of any term.

These documents shall remain confidential and shall be exempted from the requirements of P.L.1963, c. 73 (C.47:1A-1 et seq.);

t. Promulgate and enforce rules for reasonable sanctions, including assessments of costs and attorneys' fees which may be imposed on a party, and attorney or other representative of a party who, without just excuse, fails to comply with any procedural order or with any standard or rule applying to a contested case and including the imposition of a fine not to exceed \$1,000.00 for misconduct which obstructs or tends to obstruct the conduct of contested cases;

u. Have power in connection with contested case hearings (1) to administer oaths to any and all persons, (2) to compel by subpoena the attendance of witnesses and the production of books, records, accounts, papers, and documents of any person or persons, (3) to entertain objections to subpoenas, and (4) to rule upon objections to subpoenas except, that any orders of administrative law judges regarding these objections may be reviewed by the agency head before the completion of the contested case in accordance with procedural rules, adopted by the Director and Chief Administrative Law Judge of the Office of Administrative Law. Misconduct by any party, attorney or representative of a party or witness which obstructs or tends to obstruct the conduct of a contested case or the

failure of any witness, when duly subpoenaed to attend, give testimony or produce any record, or the failure to pay any sanction assessed pursuant to subsection t. of this section, shall be punishable by the Superior Court in the same manner as such failure is punishable by such court in a case pending therein; and v. Assign any judge recalled pursuant to section 4 of P.L.1978, c. 67 (C.52:14F-4) and fix the per diem allowance.

- North Carolina
 - o The head of the Office of Administrative Hearings is the Chief Administrative Law Judge, who shall serve as Director of the Office. The Chief Administrative Law Judge has the powers and duties conferred on that position by this Chapter and the Constitution and laws of this State and may adopt rules to implement the conferred powers and duties.
- Oregon
 - o The chief administrative law judge shall employ administrative law judges. The chief administrative law judge shall ensure that administrative law judges employed for the office receive all training necessary to meet the standards required under the program created under [ORS 183.680](#).
 - o The chief administrative law judge shall take all actions necessary to protect and ensure the independence of each administrative law judge assigned from the office.
- Texas
 - o The chief administrative law judge shall:
 - (1) supervise the office;
 - (2) protect and ensure the decisional independence of each administrative law judge;
 - (3) adopt a code of conduct for administrative law judges that may be modeled on the Code of Judicial Conduct; and
 - (4) monitor the quality of administrative hearings conducted by the office.

States/Statue language describing how ALJs are placed into office and necessary qualifications:

- Arizona
 - o The office shall employ full-time administrative law judges to conduct hearings required by this article or other laws as follows:
 1. The director shall assign administrative law judges from the office to an agency, on either a temporary or a permanent basis, at

supervisory or other levels, to preside over contested cases and appealable agency actions in accordance with the special expertise of the administrative law judge in the subject matter of the agency.

2. The director shall establish the subject matter and agency sections within the office that are necessary to carry out this article. Each subject matter and agency section shall provide training in the technical and subject matter areas of the section as prescribed in subsection C, paragraph 7 of this section.

- Colorado

- The executive director of the department of personnel may appoint such administrative law judges except those employed pursuant to [sections 24-50- 103\(7\)](#) and [40-2-104, C.R.S.](#), as may be necessary to provide services to each state agency, except the state personnel board and the public utilities commission, entitled to use administrative law judges.

Any administrative law judge shall meet the same qualifications as a district court judge.

- District of Columbia

- An Administrative Law Judge shall be appointed to the Excepted Service as a statutory officeholder pursuant to [§ 1-609.08](#), upon the affirmative vote of a majority of the voting members of the Commission after a selection process in accordance with rules promulgated pursuant to [§ 2-1831.11\(a\)](#) and [\(b\)](#).

- To be eligible for appointment, an Administrative Law Judge shall:

- (1) At the time of appointment, be a member in good standing of the District of Columbia Bar and remain in good standing throughout his or her tenure as an Administrative Law Judge;

(2) If appointed to a position at grade 15 or below, be subject to the residency requirements applicable to attorneys pursuant to [§ 1-609.06\(c\)](#);

(3) If appointed to a position at a level higher than grade 15, be subject to the residency requirements placed on members of the Senior Executive Attorney Service pursuant to [§ 1-608.59](#);

(4) Have at least 5 years experience in the practice of law, including experience with court, administrative, or arbitration litigation;

(5) Possess judicial temperament, expertise, experience, and analytical and other skills necessary and desirable for an

Administrative Law Judge; and

(6) Satisfy all other requirements specified in rules promulgated pursuant to [§ 2-1831.11\(a\)](#) and [\(b\)](#);

- Florida
 - The division shall employ administrative law judges to conduct hearings required by this chapter or other law. Any person employed by the division as an administrative law judge must have been a member of The Florida Bar in good standing for the preceding 5 years.
- Louisiana
 - The director of the division shall employ the administrative law judges for the division, each of whom shall have the following qualifications:
 - (1) An administrative law judge shall be a resident of Louisiana.
 - (2) An administrative law judge shall be licensed to practice law in Louisiana.
 - (3) An administrative law judge shall have been engaged in the actual practice of law for at least five years prior to his appointment.
- Maryland
 - An administrative law judge:
 - (1) shall be a special appointment in the State Personnel Management System;
 - (2) may be removed, suspended, or demoted by the Chief Administrative Law Judge for cause, after notice and an opportunity to be heard;
 - (3) shall receive the compensation provided in the State budget; and
 - (4) may not perform duties inconsistent with the duties and responsibilities of an administrative law judge.
- Minnesota
 - All administrative law judges and workers' compensation judges must be learned in the law and must be free of any political or economic association that would impair their ability to function in a fair and impartial manner. Administrative law judges shall have demonstrated knowledge of administrative procedures and workers' compensation judges shall have demonstrated knowledge of workers' compensation laws.
- New Jersey

- Permanent administrative law judges shall be appointed by the Governor with the advice and consent of the Senate to initial terms of one year. During this initial term, each judge shall be subject to a program of evaluation as delineated in section 5 of P.L.1978, c. 67 (C.52:14F-5). First reappointment of a judge after this initial term shall be by the Governor for a term of four years and until the appointment and qualification of the judge's successor. Administrative law judges nominated by the Governor before July 1, 1981 shall, upon their confirmation by the Senate, serve for terms of five years and until the appointment and qualification of their successors.
- North Carolina
 - The Chief Administrative Law Judge shall appoint additional administrative law judges to serve in the Office of Administrative Hearings in such numbers as the General Assembly provides. No person shall be appointed or designated an administrative law judge except as provided in this Article.
- Oregon
 - Only persons who have a knowledge of administrative law and procedure may be employed by the chief administrative law judge as administrative law judges. The chief administrative law judge by rule may establish additional qualifications for administrative law judges employed for the office.
- Washington
 - The chief administrative law judge shall appoint administrative law judges to fulfill the duties prescribed in this chapter. All administrative law judges shall have a demonstrated knowledge of administrative law and procedures. The chief administrative law judge may establish different levels of administrative law judge positions.

States/Statute Language establishing specific powers and duties of ALJs:

- District of Columbia
 - An Administrative Law Judge shall:
 - (1) Participate in the program of orientation and in programs of continuing legal education for Administrative Law Judges required by the Chief Administrative Law Judge;
 - (2) Meet annual performance standards applicable to his or her duties;
 - (3) Engage in no conduct inconsistent with the duties,

responsibilities, and ethical obligations of an Administrative Law Judge;

(4) Not be responsible to, or subject to the supervision or direction of, an officer, employee, attorney, or agent engaged in the performance of investigative, prosecutorial, or advisory functions for another agency;

(5) Fully participate in Office management committees and management activities to set and steer policies relating to Office operations, including, without limitation, personnel matters;

(6) Supervise, direct, and evaluate the work of employees assigned to him or her;

(7) Conform to all legally applicable standards of conduct;

(8) Decide all cases in an impartial manner;

(9) Devote full-time to the duties of the position and shall not:

(A) Engage in the practice of law; or (B) Perform any duties that are inconsistent with the duties and responsibilities of an Administrative Law Judge;

(10) Cooperate with the Executive Director of the Office to achieve efficient and effective administration of the Office; and

(11) Take an oath of office, as required by law, prior to the commencement of duties.

○ In any case in which he or she presides, an Administrative Law Judge may:

▪ (1) Issue subpoenas and may order compliance therewith;

(2) Administer oaths;

(3) Accept documents for filing;

(4) Examine an individual under oath;

(5) Issue interlocutory orders and orders;

(6) Issue protective orders;

(7) Control the conduct of proceedings as deemed necessary or desirable for the sound administration of justice;

(8) Impose monetary sanctions for failure to comply with a lawful order or lawful interlocutory order, other than an order that solely requires payment of a sum certain as a result of an admission or finding of liability for any infraction or violation that is civil in nature;

(9) Suspend, revoke, or deny a license or permit;

(10) Perform other necessary and appropriate acts in the performance of his or her duties and properly exercise any other powers authorized by law;

(11) Engage in or encourage the use of alternative dispute resolution;

(12) When authorized by rules promulgated pursuant to [§ 2-505](#), issue administrative inspection authorizations that authorize the administrative inspection and administrative search of a business property or premises, whether private or public, and excluding any area of a premises that is used exclusively as a private residential dwelling. Subject to the exclusions of this paragraph, property (including any premises) is subject to administrative inspection and administrative search under this paragraph only if there is probable cause to believe that:

(A) The property is subject to one or more statutes relating to the public health, safety, or welfare; (B) Entry to said property has been denied to officials authorized by civil authority to inspect or otherwise to enforce such statutes or regulations; and (C) Reasonable grounds exist for such administrative inspection and search; and

(13) Exercise any other lawful authority.

- Louisiana

○ The administrative law judge shall have the authority to:

(1) Regulate the adjudicatory proceedings assigned to him.

(2) Issue such decisions and orders as are necessary to promote a fair, orderly, and prompt adjudication.

(3) Exercise those powers vested in the presiding officer in the Administrative Procedure Act.

(4) If the parties do not object, conduct adjudications or conferences in person or by telephone, video conference, or similar communication equipment, and administer oaths in such proceedings.

(5) Continue an adjudication in any case when a party or subpoenaed necessary witness has been called to service in the uniformed services as defined in [R.S. 29:403](#), including but not limited to a proceeding pursuant to [R.S. 32:667](#).

- Maryland

○ In any contested case conducted by an administrative law judge, the administrative law judge may:

- (1) authorize the issuance of subpoenas for witnesses;
 - (2) administer oaths;
 - (3) examine an individual under oath; and
 - (4) compel the production of documents or other tangible things.
- North Dakota
 - All administrative law judges shall comply with the duties of hearing officers under [section 28-32-31](#) for all hearings of administrative agencies under chapter 28-32, as well as for all hearings of administrative agencies not under chapter 28-32, in accordance with applicable laws.
- Oregon
 - An administrative law judge employed by or contracting with the chief administrative law judge shall conduct hearings on behalf of agencies as assigned by the chief administrative law judge. An administrative law judge shall be impartial in the performance of the administrative law judge's duties and shall remain fair in all hearings conducted by the administrative law judge.