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Promoting Public-Interest Law and Pro Bono Service

February 10, 2023

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Via Email

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Councilmember Brianne K. Nadeau
Committee on Public Works and Operations
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Re: Performance Oversight Hearing on Office of Administrative Hearings

The Washington Council of Lawyers submits this written testimony to highlight the need for improvements at the Office of Administrative Hearings ("OAH") Resource Center. The Center's function is to provide support for pro se individuals as they navigate their legal cases.

Washington Council of Lawyers appreciates the Committee's attention to the recommendations made in the 2016 report from the Office of the D.C. Auditor, and the efforts made over the past year by OAH to improve its services for pro se litigants. Stakeholders have reported that OAH's Acting Resource Center Coordinator and updated website have been useful. Nonetheless, additional improvements are essential: Protocols must be established to ensure that an attorney is on duty in the Center at all times, hard copy and online materials should be continually improved and updated, and collaboration with legal service providers, law schools, and other volunteers must be energetically explored to ensure that every possible kind of assistance is available for litigants. Additionally, it is imperative that OAH finds a permanent home for the Resource Center and its entire staff within a specific place in the OAH organizational chart.

We appreciate the opportunity to address this important issue.

With best regards,

Christina Jackson

**Written Testimony submitted by Christina Jackson,
Executive Director, Washington Council of Lawyers
to the D.C. Council Committee on Public Works & Operations
Performance Oversight Hearing: Office of Administrative Hearings
February 6, 2023
Office of Administrative Hearings**

The Washington Council of Lawyers¹ submits this written testimony to highlight the need for improvements at the Office of Administrative Hearings (“OAH”) Resource Center. The Center’s function is to provide support for pro se individuals as they navigate their legal cases.

Since beginning formal operations in 2004, OAH’s jurisdiction and caseloads have steadily increased², highlighting the importance of its role in ensuring fair and robust administrative adjudication in the District. In 2016, the Office of the D.C. Auditor requested a report³ from the Council for Court Excellence, which made a variety of recommendations for the continued improvement of OAH. One important issue identified in the 2016 audit, and which continues today, is the need for greater investment to ensure meaningful and effective participation by pro se litigants in OAH proceedings.

Upwards of 90% of litigants at OAH are without counsel, so they must attempt to understand the complex and sometimes intimidating legal procedures by themselves. As stated in the D.C. Access to Justice Commission’s 2019 report, the majority of individuals in several categories of public benefits, shelter, unemployment, and school discipline cases are representing themselves at OAH.⁴ The data shows that 86% of public benefits cases, 91% of shelter cases, 91% of unemployment cases, and 88% of school discipline cases involve pro se parties.

Given these staggering statistics, it is imperative that pro se litigants with cases before OAH receive the information and support they require in order to understand both the procedural and substantive aspects of their cases. They need guidance on a variety of topics, from understanding legal terminology to identifying different types of legal pleadings. Some require assistance in reading and comprehending legal documents issued by OAH or filed by opposing parties. Often, they do not understand how a case proceeds, the important deadlines, and the procedural requirements. The OAH Resource Center plays a crucial role in fulfilling these needs.

There is still much work to be done to create a thriving Resource Center where litigants can depend on receiving the assistance they require and deserve. OAH continues to lack the necessary dedicated staffing needed to provide basic support for *pro se* litigants through its Resource Center. It is our understanding that the current staff attorney can be pulled to other duties at any time, leaving litigants without vital support. When that attorney is out of the office, pro se litigants have no one to assist them. Although the Council added a new position for this fiscal year, we understand that this position remains unfilled. With dedicated Resource Center staff, OAH can ensure resources are available when litigants need them.

¹ Washington Council of Lawyers was founded in 1971 and today remains the only voluntary bar association in the District of Columbia solely dedicated to promoting pro bono service and public-interest law. We have over 500 dues-paying members and connect with nearly 5,000 other public-interest-minded legal professionals and law students through our communications, events, and trainings. Our members work at small and large law firms, corporate legal offices, local and federal government agencies, law schools, legal services providers, and policy organizations. Together we strive to ensure that our legal system treats everyone fairly, regardless of money, position, or power. You can learn more about Washington Council of Lawyers on our website, www.wclawyers.org.

² Administrative Justice in the District of Columbia: Recommendations to Improve DC’s Office of Administrative Hearings, p. 16, Office of the D.C. Auditor. www.courtexcellence.org/uploads/publications/OAH_Final_Report_20160908_1.pdf

³ Administrative Justice in the District of Columbia: Recommendations to Improve DC’s Office of Administrative Hearings, p. 50, Office of the D.C. Auditor. www.courtexcellence.org/uploads/publications/OAH_Final_Report_20160908_1.pdf

⁴ Delivering Justice: Addressing the Civil Legal Needs in the District of Columbia, p. 210, D.C. Access to Justice Commission. https://dcaccesstojustice.org/assets/pdf/Delivering_Justice_2019.pdf.

Moreover, dedicated staff will be able to more closely collaborate with legal service providers and effectively tap into the pro bono volunteer network. A well-functioning resource center would allow OAH to better leverage potential pro bono volunteers, who could reinforce OAH staff efforts by providing guidance to individuals who are attempting to figure out OAH's adjudicatory process on their own.

Washington Council of Lawyers appreciates the Committee's attention to the recommendations made in the 2016 report from the Office of the D.C. Auditor, and the efforts made over the past year by OAH to improve its services for *pro se* litigants. Stakeholders have reported that OAH's Acting Resource Center Coordinator and updated website have been useful. Nonetheless, additional improvements are essential: Protocols must be established to ensure that an attorney is on duty in the Center at all times, hard copy and online materials should be continually improved and updated, and collaboration with legal service providers, law schools, and other volunteers must be energetically explored to ensure that every possible kind of assistance is available for litigants.

Additionally, it is imperative that OAH finds a permanent home for the Resource Center and its entire staff within a specific place in the OAH organizational chart. The staffing benchmark study requested by the Committee could provide valuable insights into the combination of staff, volunteers, and contracts needed to fully meet the needs of stakeholders. Also, OAH should discern from both staff and clients whether the current physical set-up of the Center (which, we understand, does not have dedicated space in an office of its own) meets stakeholders' needs.

Finally, the Office of Administrative Hearings' FY23 plan does not seem to include the Resource Center or comparable services among its performance measures. We hope that the Committee can urge OAH to rectify this omission.

We need not look far to identify the type of self-help center that can make a significant difference in how successfully pro se litigants experience the legal system. The D.C. Superior Court Family Court Self Help Center, operated by the Court itself, provides assistance to hundreds of litigants who have no attorneys to assist them in their domestic relations proceedings. Other resource centers (such as one for individuals involved in landlord-tenant matters) that are operated by legal services organizations also provide meaningful support to numerous individuals in our community who might otherwise not understand the sometimes-arcane legal proceedings in our local court system. We urge this Committee to assist OAH in creating a similar type of resource center, one that litigants can depend on for the information and guidance they require to navigate what is often a complicated – and sometimes overwhelming – process for many individuals.

Therefore, Washington Council of Lawyers respectfully requests that this Committee take immediate action to:

1. Ensure that OAH adequately provides the Resource Center with sufficient dedicated staffing and other logistical support.
2. Urge OAH leadership to identify a new independent unit for the Resource Center within the OAH organizational chart.

Thank you for your consideration. Washington Council of Lawyers is confident that an enhanced Office of Administrative Hearings Resource Center will bring significant benefits to DC residents who face the challenging prospect of successfully representing themselves in administrative proceedings.