

**Testimony of Christina Jackson,
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Before the D.C. Council Committee on Public Works & Operations

Performance Oversight Hearing: Office of Administrative Hearings

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Introduction

The Washington Council of Lawyers¹ submits this testimony to speak to the importance of the D.C. Office of Administrative Hearings (“OAH”) in ensuring District residents have access to civil justice. We applaud OAH for significant progress in the operation of the OAH Resource Center and wish to call attention to the critical need for OAH staffing increases to ensure it has sufficient capacity to meet the need to properly administer justice for the District residents it serves.

OAH is an essential resource for District of Columbia residents who receive vital support from D.C. government agencies. While the D.C. Courts are often the focus of access-to-justice discussions in our city, it is at OAH where District residents must first go to address and resolve disputes about whether they’ve received appropriate government support and treatment in areas like access to food stamps, economic assistance, healthcare benefits, unemployment insurance, education, rental assistance, and shelter. It is designed to provide a fair and efficient means of resolving legal controversies in these critical areas of daily life. The volume of cases presented at OAH each year is staggering – over 26,000 in FY23. In our view, access to justice

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.

at OAH requires staff capacity and other support, like technology upgrades, at sufficient levels to ensure the most efficient resolution of the cases before it.

OAH Staffing

A recent study of OAH staffing concluded that the agency is understaffed for its current caseload. The study,² which was conducted at the direction of the D.C. Council was completed by B. McNamee Consulting, LLC, (“BMC”) and recently transmitted to the Council by Chief Administrative Law Judge M. Colleen Currie. In her transmittal letter, Chief Judge Currie noted that OAH has experienced a 70% increase in the number of cases filed between 2021 (15,400 cases filed) and 2023 (26,111 cases filed) and that the increase was expected to continue. She emphasized that this greater caseload requires more staff in order to process the cases efficiently at a standard OAH wishes to achieve.

The BMC study noted that:

Given the current and predicted future case volume coming to OAH from the agencies they serve, OAH believes they have neither the staffing capacity nor process efficiency to handle it. BMC’s study and subsequent findings capture the extent that these assumptions are true.

The authors concluded that:

Vacant positions have increased the workload on employees, particularly those working directly on cases. Further exasperating workload is the increasing caseloads from the district agencies served by OAH. . . . [T]his has creased the conditions where employees are unable to maintain standardized processes, provide necessary training and professional development, adopt and properly incorporate technology into operations, and an overall breakdown in working relationships. BMC believes that the longer these conditions persist, employee retention and court operational efficiency will worsen.

The BMC study found that OAH must increase the number of staff working directly on cases from 61 to 71 full-time equivalent employees and recommended that OAH increase staff who do

² D.C. Office Administrative Hearing, Court Feasibility Study, 2023 (“BMC Study”). Copy attached to our written testimony.

not work directly on cases by 3.25 FTE. The study did note that these staffing requirements are needed in part to address a backlog of cases. However, the number of cases filed each year is only increasing. Thus, it is reasonable to assume the backlog is going to continue.

The BMC study assessed the implications of OAH's insufficient staffing capacity. During BMC's listening sessions with employees, the number one topic across employers in all divisions was understaffing.

The authors found that:

Every group cited that the lack of Legal Assistants across OAH has impacted workload. For the existing Legal Assistants, they have found that they are unable to keep up with the work as they are expected to lead the administrative tasks while also researching/managing the hearings. In the end, the Legal Assistants are stretched and issues are sliding through the cracks.

Further, they highlighted the issues identified by the administrative law judges.

The ALJ's noted that they have taken on more administrative tasks, e.g., scheduling and setting up Webex hearings and meetings, which takes away from hearing and researching cases. They feel that they do not have enough time to properly research, set legal precedent, and manage their case load (which varies by area). Beyond these issues, the ALJ's also noted that some of their work (e.g. filings, initial motions, and other basic tasks above administrative tasks) could be further alleviated if they had mid-level professionals such as Paralegals, Law Clerks, or a seasoned Legal Assistant who could assist in drafting motions. One PALJ noted "Because of the lack of staff, it is time consuming. I'm finding that I have jump in as a Legal Assistant and as an admin."

Taken together, this makes a persuasive case for increased staffing at OAH. We urge this Committee and the Council to further examine the FY25 proposed budget for OAH to ensure it addresses the concerns raised in the BMC study to ensure greater access to justice in this critical, administrative tribunal.

Technology Upgrades at OAH

D.C. law requires that OAH provide public access to case filings. Specifically, D.C. Code § 2-1831.13 states that "all documents filed in any case before the Office [OAH] shall be available to

the public for review unless a statute, protective order, or other legal requirement prohibits disclosure.” This is a critical access to justice issue. A searchable database of OAH final orders, published on the agency’s website, is necessary for litigants and their advocates to properly prepare their cases. Despite persistent calls from stakeholders for access to these orders, little progress has been made.

Similarly, litigants and advocates need access to an electronic docket system for OAH cases so that they can easily review their case status and confirm hearing dates. This is standard practice in many courts and administrative agencies, but not yet achieved at OAH.

This Committee and the Council should address these areas with OAH and explore the barriers to achieving these important access to justice goals. To the extent there are budget implications – either for staffing or technology upgrades – we implore the Council to ensure the FY25 budget provides OAH with the resources it needs to have these services available to litigants. There is no reason why the District should lag behind other jurisdictions in the use of this type of technology to improve access to essential case information.

OAH Resource Center

We would like to applaud OAH for the attention it has given to making concrete and important improvements to the OAH Resource Center. As we have noted in previous testimony before the Council, upwards of 90% of litigants at OAH have no lawyer and navigate the complex legal procedures by themselves. As the D.C. Access to Justice Commission found in its *Delivering Justice* report, the majority of individuals in cases at OAH involving public benefits, housing, unemployment, and school discipline lack counsel.³ These litigants need information and

³ Delivering Justice: Addressing the Civil Legal Needs in the District of Columbia at 210, D.C. Access to Justice Commission. https://dcaccesstojustice.org/assets/pdf/Delivering_Justice_2019.pdf.

support to understand both the procedural and substantive issues in their cases. They need guidance in understanding legal terminology and reviewing legal documents issued by OAH or filed by opposing parties.

This is where the OAH Resource Center plays a critical role. The Resource Center helps these litigants maneuver through the complicated legal territory they face in OAH matters. It is a lifeline for these individuals, knowing that success at OAH is often required to ensure they receive the adequate level of food, financial, healthcare, housing, and educational benefits they seek.

We applaud Chief Judge Currie and her colleagues for their attention to strengthening the Resource Center. Recent OAH reorganization moved the position of Resource Center Manager from the Office of General Counsel to the Operations Division, ensuring consistent and dedicated support for the Resource Center and affording the manager greater autonomy to make continued improvements. This was a critical development.

Even more, OAH recently posted announcements to fill additional positions that will enhance Resource Center services, a Resource Center Program Analyst and a Resource Center Coordinator. These additional staff members will report to the Resource Center Manager and will focus on legal self-help programs and initiatives, including developing and implementing a new Resource Center intake process and helping build and coordinate Resource Center volunteer programs. This is an area that the Washington Council of Lawyers, the District's voluntary bar association for pro bono and public interest lawyers, is anxious to help support.

The Resource Center assisted more than 800 litigants in 2023. With these recent improvements, we expect a steady increase in volume of Resource Center usage. The Center will be able to continue its virtual support, while also supplementing its in-person presence in

dedicated space that can also accommodate pro bono volunteers. These recent changes are significant steps in ensuring that the Resource Center and OAH as a whole have the capacity to help litigants who must handle their cases without the assistance of counsel.

Conclusion

The Office of Administrative Hearings affects the day-to-day lives of thousands of D.C. residents. Increased staffing is needed to make sure that the agency can adjudicate disputes in a thoughtful and efficient manner. Ensuring the availability of appropriate technology is also essential to supporting positive process changes. In addition, the agency's Resource Center plays an important role in assisting the numerous pro-se litigants with cases before OAH, and we look forward to seeing continued progress in enhancing the capacities of that office.

Thank you for the opportunity to testify before this Committee on this access to justice issue affecting so many thousands of District residents.