

From: [Lee, Lorraine \(OAH\)](#)
To: [Schumacher, David \(OFM\)](#)
Cc: [Wicker, Kelly \(GOV\)](#); [Heuschel, Mary Alice \(GOV\)](#)
Subject: OAH Contingency Planning for Agency Operations on July 1
Date: Monday, June 17, 2013 4:42:26 PM

Dear Director Schumacher,

The Legislature created the Office of Administrative Hearings (OAH) in 1981 to eliminate perceived bias when administrative law judges (ALJs) work for the same agency as issued the decision under review.

We maintain field offices in Olympia, Seattle, Spokane, Tacoma, Vancouver and Yakima. We provide adjudicative services to more than 30 state agencies who refer cases to us for hearing. The referring agencies include the Employment Security Department (ESD), Health Care Authority (HCA), Department of Social and Health Services (DSHS), Department of Financial Institutions (DFI), Liquor Control Board (LCB), the Office of Superintendent of Public Instruction (OSPI) and the Department of Transportation (DOT). In addition, we conduct hearings related to local government Whistleblower issues.

Because our role is to provide administrative hearings to members of the public when they disagree with an agency determination, our response to the June 12, 2013 request regarding authorizing environment is conditioned upon the response of the agencies we serve. To that end, I have been in contact with the agencies we serve and am awaiting responses from most.

We are able to identify some matters that may be authorized in the absence of appropriations. They include:

1. Services funded by appropriations in the enacted transportation budget (ESSB 5024).
 - Department of Transportation toll violation appeals (5 ALJs)
 - Department of Transportation access (land use) appeals
2. Services that do not require an appropriation, e.g., from non-appropriated funds
 - Local government Whistleblower appeals (*See* RCW 42.41.060) (1ALJ; .7 support staff)
 - Department of Financial Institutions-referred appeals (1ALJ; .7 support staff)
3. Services based on constitutional mandates and federal law
 - Office of Superintendent of Public Instruction special education appeals (*See* CFR 300.1, CFR 300.101, CFR 300.500) (3 ALJs; 1 support staff)

For appeals from the HCA and DSHS programs, there are some that are based on federal law with specified timeliness requirements; we are in contact with HCA and DSHS to determine which ones might fall under category #3 above. We continue our efforts with other referring agencies to identify the specific programs and mandates that should be authorized in the absence of appropriations. Once we have that information, we will forward it to you.

Finally, the contact for OAH regarding this contingency planning is Deputy Chief ALJ Patti Latsch. Her contact information is patricia.latsch@oah.wa.gov and 360-628-6222.

Regards,

Lorraine

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