

H.879

An act relating to administrative hearing officers

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 3 V.S.A. § 221 is added to read:

§ 221. HEARING OFFICERS; RULES

(a) The Secretary of Administration shall adopt a rule to establish guidelines and oversight for hearing officers in the Executive Branch. As used in this section, “hearing officer” means a person employed by the State of Vermont whose exclusive duty is to resolve contested cases when a decision of an Executive Branch agency is challenged.

(b) The rule adopted pursuant to this subsection shall include provisions addressing the following topics:

(1) The rule shall include ethical standards for hearing officers. The ethical standards:

(A) may be based on the Model Code of Judicial Conduct for State Administrative Law Judges developed by the National Association of Administrative Law Judiciary;

(B) shall be made readily accessible to the public and to parties in administrative proceedings; and

(C) shall include provisions related to bias, impartiality and the appearance of impartiality, conflicts of interest, recusal and disqualification, confidentiality, and ex parte communications.

(2) The rule shall require the agency or department that employs the hearing officer to designate procedures for the receipt, consideration, and determination of complaints about the conduct of hearing officers. The procedures shall be provided to all parties in the matter.

(3) The rule shall ensure that all parties in proceedings presided over by a hearing officer are provided with a copy of the rules of procedure that apply to the proceedings. The rules shall prominently and specifically describe any appeal rights a party has and the procedure for filing an appeal.

## Sec. 2. HEARING OFFICERS; REPORT

(a) On or before December 15, 2014, the Commissioner of Human Resources shall report to the House and Senate Committees on Judiciary and on Government Operations on the current and potential use and oversight of hearing officers in Vermont State government. The report shall:

(1) identify all State employees and contractors who function in whole or in part as hearing officers;

(2) analyze the feasibility and costs of expanding the rule adopted pursuant to 3 V.S.A. § 221 to all State employees and contractors who function in whole or in part as hearing officers; and

(3) analyze the feasibility and costs of providing education and training to:

(A) hearing officers covered by the rule adopted pursuant to 3 V.S.A.

§ 221; and

(B) all State employees and contractors who function in whole or in part as hearing officers.

(b) As used in this section:

(1) “Education and training” shall include content related to:

(A) the importance to the proceedings of fairness, impartiality, and the appearance of impartiality;

(B) the rules of evidence;

(C) legal writing, reasoning, and decision making;

(D) the ethical standards established pursuant to 3 V.S.A.

§ 221(b)(1);

(E) confidentiality; and

(F) the participation of pro se parties.

(2) “Hearing officer” means a person employed or contracted on a full-time or part-time basis by the State of Vermont whose duties include resolving contested cases when a decision of an Executive Branch agency is challenged.

AS PASSED BY HOUSE  
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Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.