

1 H.879

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Executive; administrative department; hearing officers

5 Statement of purpose of bill as introduced: This bill proposes to require the  
6 Secretary of Administration to report on and adopt rules related to matters  
7 presided over by administrative hearing officers in the Executive Branch of  
8 Vermont government.

9 An act relating to administrative hearing officers

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

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

12 § 221. HEARING OFFICERS; RULES

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

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

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

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

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

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

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

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

19       Sec. 2. HEARING OFFICERS; REPORT

20           (a) On or before December 15, 2014, the Commissioner of Human  
21 Resources shall report to the House and Senate Committees on Judiciary and

1 on Government Operations on the current and potential use and oversight of  
2 hearing officers in Vermont State government. The report shall:

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

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

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

10 (A) hearing officers covered by the rule adopted pursuant to 3 V.S.A.  
11 § 221; and

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

14 (b) As used in this section:

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

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

18 (B) the rules of evidence;

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

20 (D) the ethical standards established pursuant to 3 V.S.A.  
21 § 221(b)(1);

1           (E) confidentiality; and

2           (F) the participation of pro se parties.

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

7           Sec. 3. EFFECTIVE DATE

8           This act shall take effect on passage.