

1 Introduced by Committee on Judiciary

2 Date:

3 Subject: Executive; administrative department; hearing officers

4 Statement of purpose of bill as introduced: This bill proposes to require the
5 Secretary of Administration to adopt a code of conduct for and develop a
6 system of providing education and training to administrative hearing officers in
7 the Executive Branch of Vermont government.

8 An act relating to administrative hearing officers

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

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

11 § 221. HEARING OFFICERS; EDUCATION; CODE OF CONDUCT

12 (a)(1) The Secretary of Administration shall establish a code of conduct
13 applicable to hearing officers in the Executive Branch. The code of conduct
14 may be based on the Model Code of Judicial Conduct for State Administrative
15 Law Judges developed by the National Association of Administrative Law
16 Judiciary.

17 (2) The code of conduct established pursuant to this subsection shall be
18 made readily accessible to the public and to parties in administrative
19 proceedings, and shall include provisions related to:

20 (A) bias, impartiality, and the appearance of impartiality;

1 (B) conflicts of interest;

2 (C) recusal and disqualification; and

3 (D) confidentiality and ex parte communications;

4 (b) The Secretary of Administration shall establish procedures for the
5 evaluation and discipline of hearing officers who violate the code of conduct
6 established pursuant to subsection (a) of this section. The system shall include:

7 (1) a system for annually evaluating the performance of hearing officers
8 according to criteria established by rule;

9 (2) a designated entity that receives, considers, and determines
10 complaints about the conduct of hearing officers;

11 (3) procedures for the filing of complaints that are widely available to
12 and readily accessible by the public; and

13 (4) a clearly identifiable method of appeal from an adverse decision of
14 the entity designated to rule on the complaint.

15 (c)(1) The Secretary of Administration shall establish a system of education
16 and training for hearing officers in the Executive Branch. Education and
17 training shall include content related to:

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

20 (B) the rules of evidence;

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

1 (D) the code of conduct established pursuant to subsection (a) of this
2 section;

3 (E) confidentiality;

4 (F) the participation of pro se parties;

5 (G) potential uses of mediation in administrative proceedings; and

6 (H) particular subject matters within the jurisdiction of hearing
7 officers.

8 (2) Where appropriate the system of education and training established
9 pursuant to this subsection shall provide:

10 (A) centralized and consistent training across disciplines for hearing
11 officers throughout the Executive Branch;

12 (B) differentiated training and support programs for particular
13 categories of hearing officers.

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

19 Sec. 2. EFFECTIVE DATE

20 This act shall take effect on passage.