

ADMINISTRATIVE LAW AND AGENCY PRACTICE SECTION



The District of Columbia Bar

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SUMMARY OF COMMENTS
OF
THE ADMINISTRATIVE LAW & AGENCY PRACTICE SECTION
OF THE D.C. BAR
REGARDING THE OFFICE OF PERSONNEL MANAGEMENT'S
OVERSIGHT OF THE SELECTION OF ADMINISTRATIVE LAW JUDGES

The Administrative Law and Agency Practice Section intends to submit the attached letter to Mr. Leonard R. Klein, the Associate Director for Employment of the Office of Personnel Management. Mr. Klein has indicated that his office is considering suspending, perhaps indefinitely, the examination process by which new candidates for federal Administrative Law Judge positions are evaluated and ranked. Pursuant to Section 11 of the Administrative Procedures Act, federal agencies wishing to hire new Administrative Law Judges must select candidates from the list maintained by OPM.

The Section is urging OPM not to suspend the examination process but to keep the process open so that new candidates may continue to be evaluated and added to the list, thus ensuring that the list contains at all times the best qualified candidates for these positions. The Section is also encouraging OPM to seek broad input from all interested parties in any revamping of the examination process which may be undertaken in the future.

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May 20, 1996

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Mr. Leonard R. Klein
Associate Director for
Employment
Office of Personnel Management
Washington, D.C. 20415

Committee:
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Dear Mr. Klein:

As you know, the Administrative Law and Agency Practice Section of the D.C. Bar sponsored a panel presentation on the procedures by which Administrative Law Judges are selected at the recent Winter Convention of the District of Columbia Bar. During the preparation for this event, we learned that your office is considering closing the Register in the next few months and suspending, perhaps indefinitely, the process by which new applicants for ALJ positions are reviewed. We are writing to formally urge you not to take action to curtail or suspend the examination process.¹

Our section represents more than 1200 attorneys with a specialization and interest in administrative law. Most of our members practice before federal agencies and many appear in administrative proceedings, including those presided over by Administrative Law Judges. We, therefore, have a direct and personal interest in how the selection procedures are conducted in the future.

Maintaining a constantly renewing pool of applicants to ensure there will be a cadre of the best qualified individuals at all times for potential placement as Administrative Law Judges is, in our view, critical to maintaining the high standards of administrative adjudication throughout the federal government.

¹ The views expressed herein represent only those of the Administrative Law and Agency Practice Section of the D.C. Bar and not those of the D.C. Bar or of its Board of Governors.

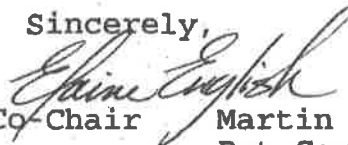
Mr. Leonard R. Klein
May 20, 1996
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Freezing the Register for any period can deprive those agencies with job opportunities for ALJs from being able to select from among the most qualified individuals. The strong attendance at our seminar suggests that there continues to be a substantial pool of attorneys interested and willing to serve as ALJs. They and others in the future must be given the opportunity to compete, and this can only be assured by leaving the Register open and continuing the examination process. Having an ongoing pool of potential candidates not only assures high quality selections, but over time should also serve to increase the numbers of women and minorities holding ALJ positions and bring needed diversity to the adjudicatory process. While we understand that budget cutbacks within OPM and general governmental downsizing suggest a diminishing demand for Administrative Law Judges, at least in the near future, we feel that the important role served by this administrative judiciary require special considerations, including at a minimum, an open and on-going examination process.

To the extent that OPM may be considering changes to the examination and qualification procedures for ALJs generally, we urge you to open this discussion to all interested parties, including current ALJs, agencies which utilize not only ALJs but other hearing examiners, and members of the private bar. The Administrative Conference of the United States in 1992 made numerous recommendations for change, many of which appear not to have received full review and consideration. While we understand that some of the recommendations proved to be quite controversial, the seriousness with which ACUS approached its study of the ALJ corps should prompt careful examination of all its suggestions. Finally, we urge OPM to consider an examination procedure that allows for greater involvement on the part of the individual agencies hiring ALJs, not only as a means of minimizing the burden of administering the examination process upon OPM but also as an incentive to encourage more agencies to hire directly from the Register.

If your office should want further input, members of our Section would be willing to participate in future discussions of these issues. Thank you for your time and attention.

Sincerely,



Sheryl L. Walter, Co-Chair
Whitney Adams
Elaine English*
Lucinda Sikes

Martin Wald, Co-Chair
Pat Carome
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