

**DEPUTY SECRETARY OF LABOR**  
**WASHINGTON, D.C. 20210**

**MAY 27 2020**

MEMORANDUM FOR:                   STEPHEN HENLEY  
  Chief Judge  
  Office of Administrative Law Judges

FROM:                                   PATRICK PIZZELLA 

SUBJECT:                               OALJ Reporting on Case Inventory

Providing a neutral forum to resolve labor-related administrative disputes in a fair, transparent, and accessible manner is a critical function of the Department of Labor (DOL). The Office of Administrative Law Judges (OALJ) is central to the Department's ability to fulfill that important responsibility.

Equally important is that the Department process these disputes in an efficient and timely fashion. Justice delayed is too often justice denied. For that reason, it is critical that the Department be watchful as to how long cases and dispositive motions have been pending to help ensure that the Department resolves them as expeditiously as possible.

Accordingly, to assist in fact-based decision-making about resource allocation and case management, effective immediately, the OALJ will submit a quarterly report to the Office of the Secretary (OSEC) on disposed and pending cases and dispositive motions, as described below. In addition to any information or context that OALJ believes should be conveyed to OSEC about such cases, the report should include the following information for each OALJ office:

- ❖ The number of dispositive motions that have been pending before OALJ for more than six months and the name of each such case and its docket number.
- ❖ The number of cases that have been pending before OALJ for more than two years, measured from the time the case was filed, and the names of such cases and their docket numbers.
- ❖ The number of cases in which the record has been closed for more than six months without a decision being issued, and the names of such cases and their docket numbers.
- ❖ The number of cases disposed of per year over the preceding three year period. To allow for a meaningful assessment of this information, the report should also provide information regarding the types of cases decided and the types of dispositions reached.
- ❖ The average number of months it took to complete a case with respect to all cases decided in the preceding six month period, measured from the time the case is filed until a decision is issued. This data should also be broken down by case type and disposition type.

In addition to submitting this report to OSEC, OALJ shall also circulate the report to all of the Department's administrative law judges. Further, to enhance transparency with respect to how the Department resolves administrative disputes, the requested information about cases and dispositive motions should be made publicly available. The report should thus provide information in a style and format that could be easily repurposed for presentation on the DOL website for public review.

The reports requested by this memorandum should be submitted to the Office of the Deputy Secretary on a quarterly basis. The first report should be submitted by June 12th for the quarter ending on March 31st, and thereafter updated and revised, as necessary, for future submissions, which are to be made 60 days after the end of each quarter. Information that OALJ does not currently collect may be omitted from the first report. But OALJ should take action, if necessary in cooperation with the Office of the Chief Information Officer, to ensure that such information can be included in all future reports.

The integrity of many DOL programs depends upon the important work of OALJ. ALJs are often entrusted with exercising significant authority in conducting proceedings under the laws of the United States. It is therefore incumbent on the Department to take all reasonable and appropriate steps at its disposal to ensure OALJ continues the high-quality work it is known for – and makes improvements where possible.

This information is intended to support effective operational and resource management while respecting the independence of the Department's Administrative Law Judges. Next to impartiality and adherence to the rule of law, efficiency in case processing, including timely decision-making, is one of the most important virtues of any adjudicative system. That is why monitoring case processing times is a commonly used tool for guiding the effective deployment of judicial resources. For example, the American Bar Association has advised that a properly functioning state trial court system should resolve 90% of civil cases within 12 months of when they are filed, and many courts look to this and similar standards as ways to gauge and improve their performance. With over 7,000 cases pending before it—some of which were filed more than three years ago—it is essential that OALJ also do what it can to monitor and assess the timeliness with which it renders decisions.

Although the type of reporting required by this memorandum is new for the Department, similar reporting is done in the Article III courts, to positive effect. Indeed, federal law requires Article III courts to have the automated ability to track the status of each and every case on their docket, and also provides for public reporting on the status of pending cases. *See* 28 U.S.C. §§ 476, 481. It is my hope that comparable monitoring of and transparency about cases pending before OALJ will help us ensure the Department continues to process cases effectively and efficiently.

To help implement these new reporting requirements, please share this memorandum with your colleagues within OALJ. Please let me know if you have any questions.

Thank you for your cooperation.

cc: Eugene Scalia, Secretary of Labor  
Kate O'Scannlain, Solicitor of Labor