



**STATEMENT OF THE ASSOCIATION OF
ADMINISTRATIVE LAW JUDGES**

**COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SOCIAL SECURITY**

June 27, 2012

**ADMINISTRATIVE LAW JUDGES
PROTECTING JUSTICE AND DUE PROCESS
FOR THE AMERICAN PEOPLE**

**Statement of the Honorable D. Randall Frye, President,
Association of Administrative Law Judges
Protecting Due Process for the American People**

Chairmen Johnson, Ranking Member Xavier Becerra and members of the Subcommittee:

Thank you for providing the Association of Administrative Law Judges (AALJ) the opportunity to submit this statement. My name is D. Randall Frye. I am a United States Administrative Law Judge (ALJ or Judge) assigned to the Social Security Administration (SSA). I have been hearing Social Security Disability cases in Charlotte, North Carolina for about 15 years. I have also served as Administrative Law Judge for the National Labor Relations Board for one and one-half years. I am currently President of the AALJ, which represents the approximately 1400 Administrative Law Judges employed at the SSA. One of the stated purposes of the AALJ is to promote and preserve due process hearings in compliance with the Administrative Procedure Act (APA) and the Social Security Act for those individuals who seek adjudication of program entitlement disputes within the SSA. It is the longstanding position of the AALJ that ensuring full and fair due process *de novo* hearings brings justice to the American people. The AALJ represents most of the approximately 1600 administrative law judges in the entire Federal government.

Some criticism has been recently levied against the world's largest adjudicatory system. However, the concerns raised do not present issues that are insurmountable. In this statement, the AALJ proposes changes we believe are necessary to make the federal disability administrative judiciary more efficient and effective as well as addresses some of the issues raised during the past year. In addition, the AALJ believes the proposed changes, most of which are not new, would be cost effective and would well serve the American people. For example, the AALJ has advocated for over a decade that our government be represented in cases before Administrative Law Judges with the full right to appeal. We are extremely pleased that such a program is now supported by Senator Coburn.¹

THE NEED FOR AN INDEPENDENT ADMINISTRATIVE JUDICIARY

In 1946, the Congress enacted the Administrative Procedure Act (APA) to reform the administrative hearing process and procedures in the Federal government and to protect, *inter alia*, the American public by giving ALJs decisional independence. "Congress intended to make hearing examiners (now ALJs) 'a special class of semi-independent subordinate hearing officers' by vesting control of their compensation, promotion and tenure in the Civil Service Commission (now the Office of Personnel Management) to a much greater extent than in the case of other Federal employees." [*Ramspeck v. Federal Trial Examiners Conference*, 345 US 931 (1953)]. The agencies employing them do not have the authority to withhold the powers vested in Federal ALJs by the APA.

Prior to the enactment of the APA, the tenure and status of these hearing examiners were governed by the Classification Act of 1923, as amended. Under that Act, the classification of the hearing examiners was determined by ratings given to them by the Agency and their compensation and promotion depended upon their classification. This placed the hearing examiners in a dependent status with the Agency employing them. Many complaints were voiced against this system alleging that hearing examiners were "mere tools of the Agency" and thus subservient to Agency heads when they decided and issued decisions on issues involving Agency determinations appealed to them. With the adoption of the APA, Congress intended to correct these problems. As earlier noted, this rather significant reform was undertaken to protect the American public by giving ALJs decisional independence. Indeed, the Act's legislative history makes abundantly plain that the APA was

¹ *Back in Black – Preserving Social Security for Future Generations*, U.S. Senator Tom Coburn, M.D. (R-OK), July 18, 2011.

