

ABSTRACT

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*The Model Act Creating A State Central Hearing Agency: Promises,
Practical Problems and a Proposal for Change*

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Abstract by Peter J. Hack

The article discusses the ABA's Model Act Creating a State Central Hearing Agency. The author begins by reviewing what experience has demonstrated is needed for such a central hearing panel. The Article explains the function of hearing panels within the executive branch of state government and then defines the concept of a central panel. The central panel provides administrative law judges at the request of executive agencies to conduct hearings. The article explains that in reaction to the huge variety of administrative hearing procedures the ABA began to investigate a more uniform process. This led to the eventual adoption of the Model act in 1997. The author then reviews the experience of California and Florida in adopting central panels.

Looking to lessons learned in Florida, California, and other states with central panels, the author develops a model for central panels that will promote independence and professionalism. This model is similar to the one relied upon by the ABA in its creation of a model act. The Author then reviews the Model Act itself highlighting the most significant provisions, including: the separation of a central panel from the rest of the executive branch, selection of the Chief ALJ, and numerous other provisions. After completing a review of the Model Act and the article turns to the separation of powers issues that arise for central panels. Next the article addresses the concerns of agencies resisting a transition to a central panel system.

In the final section, the author makes a series of proposed additions to the Model Act. The author envisions these as provisions to be adopted by the legislature when enacting the Model Central Panel Act. The author concludes that the current model act is insufficient for the needs of a state creating a central panel. However, he suggests that with the addition of the proposals in the article the model act will meet the needs of a state legislature.