

Questions for the Record from Rep. Correa for Ms. Skye Perryman
“Reining in the Administrative State: Agency Adjudication and Other Agency Action”
March 20, 2024

1. Administrative Law Judges (“ALJs”).

How many agencies have ALJs? How many ALJs do each of those agencies use? Are there differences in the manner in which the agencies use or are authorized to use the ALJs? Can you expand on differences in roles in which agencies use ALJs or on issues related to constitutional or separation of power concerns?

2. Constitutional Considerations of ALJs.

Are there differences in how agencies use ALJs? If so, do those differences have any bearing on the constitutional question about the power of Congress to create these positions? If so, what are those procedural differences and how do they alter the constitutional considerations, and which agencies' use of ALJs comport with the Constitution?

3. Congressional Action.

If there are any constitutional concerns with the role of ALJs in any of the agencies, what reforms can Congress implement to address these concerns?

4. Chevron Deference.

If the Supreme Court severely limits or eliminates the “Chevron Doctrine,” there will likely be wide-ranging implications for Congress, federal agencies, and existing federal laws. What are the impacts if the “Chevron Doctrine” is eliminated or severely restricted on cooperative federal programs, such as Medicaid? Would Medicaid plans have to be passed by Congress? These intergovernmental agreements are frequently modified through State Plan Amendments (SPAs), proposed by the states and approved by the federal government. Courts typically review SPAs under Chevron. What are the implications for Congress? What will it mean for existing regulations? What about for federal courts?