



**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

January 30, 2023
FORTY-NINTH ANNUAL REPORT

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INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and the Administration Commission in compliance with section 120.65(8), Florida Statutes, which provides:

Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:

- (a) A summary of the extent and effect of agencies' utilization of administrative law judges, court reporters, and other personnel in proceedings under this chapter.
- (b) Recommendations for change or improvement in the Administrative Procedure Act or any agency's practice or policy with respect thereto.
- (c) Recommendations as to those types of cases or disputes which should be conducted under the summary hearing process described in s. 120.574.
- (d) A report regarding each agency's compliance with the filing requirement in s. 120.57(1)(m).

This report is based upon case and budget data FY 2021-22.

GENERAL

The Division of Administrative Hearings (DOAH) manages two programs. One, the subject of this report, is the Adjudication of Disputes program that operates pursuant to the Administrative Procedure Act. The other is the Workers' Compensation Adjudication program, operating pursuant to chapter 440, Florida Statutes, which requires the Office of the Judges of Compensation Claims (OJCC) to issue an annual report. The OJCC annual report was submitted timely in November 2022. Because DOAH administratively supports both programs, this report includes some information pertaining to the OJCC.

UTILIZATION AND HEARING REQUESTS

The following state agencies utilized DOAH's services:¹

- Agency for Health Care Administration
- Agency for Persons with Disabilities

¹ DOAH also hears cases involving Medical Arbitration (Sections 766.201-766.212, Fla. Stat.) and Neurological Injury Compensation Association (NICA) (Sections 766.301-766.316, Fla. Stat.). Medical Arbitration cases pay nothing (37 cases in FY 2021-22); and NICA cases pay a filing fee of \$15 (74 cases in FY 2021-22), which is far below the costs of utilization.

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- Department of Agriculture and Consumer Services
- Department of Business and Professional Regulation
- Department of Children and Families (DCF)
 - Baker Act Hearings
- Department of Corrections
- Department of Economic Opportunity
 - Florida Housing Finance Corporation
- Department of Education
- Department of Environmental Protection
- Department of Financial Services
 - Office of Financial Regulation
 - Office of Insurance Regulation
- Department of Health
- Department of Highway Safety and Motor Vehicles
- Department of Juvenile Justice
- Department of Law Enforcement
- Department of Management Services
 - Florida Commission on Human Relations
- Department of Revenue (DOR)
 - Child Support Hearings
- Department of Transportation
- Executive Office of the Governor
- Fish and Wildlife Conservation Commission
- Florida Commission on Ethics
- Florida Elections Commission
- Florida Gaming Control Commission
- Public Service Commission
- State Board of Administration

See, Appendix 1

Entities such as water management districts, cities, counties, and school districts are significant users of DOAH's services under contract.

In FY 2021-22, each Administrative Law Judge (ALJ) conducted an average of 148 hearings and wrote an average of 80 Recommended or Final Orders of varying length and complexity. In addition, each ALJ closed an average of 42 cases (excluding DCF Baker Act cases and DOR Child Support cases), which were settled or otherwise dismissed without a final hearing.

UTILIZATION OF PERSONNEL

As of June 30, 2022, the Adjudication of Disputes program had 75 established positions, consisting of the Chief Judge, the Executive Director/Deputy Chief Judge, 32 ALJs, 9 legal assistants, and 32 administrative support staff (including the Clerk's office and IT). With one legal assistant assigned to three judges, DOAH operates a highly efficient staffing model for the adjudicatory process. In light of reduced caseloads and the party preference for Zoom video conference hearings

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(dramatically reducing ALJ travel time in favor of office time). The number of ALJ positions was reduced from 32 to 30.

The Workers' Compensation Claims Court program had 165 established positions in 17 statutorily mandated locations, consisting of 1 Deputy Chief Judge and 31 Judges of Compensation Claims (JCCs), 30 Mediators, and 103 administrative support staff (including the Clerk's Office). Effective July 1, 2022, the number of JCCs and office locations are no longer in statute; therefore, some offices were consolidated in FY 2022-2023. In 2021, the OJCC adjusted its long-standing JCC administrative support complement from 4 to 3, mostly by attrition. Accordingly, DOAH reduced OJCC positions by 21.

INFORMATION TECHNOLOGY

DOAH maintains two mission-critical databases and applications: the ALJ Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by DOAH's ALJs and JCCs. Both databases are accessible via DOAH's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and email) and online legal research.

Electronic Filing

During calendar year 2022, there were 42,449 documents uploaded via the eALJ filing portal; 42,642 documents were served (via email) to 163,712 parties of record. Additionally, 579,257 documents were uploaded via the eJCC filing portal; 796,690 documents were electronically served to 2,037,150 parties of record. DOAH continues to encourage electronic filing while acknowledging pro se party limitations on the uniform application to this requirement.

DOAH endeavors to make the electronic filing and the service of pleadings and documents more user-friendly. In 2021, DOAH developed an exhibit portal that allows all users to submit proposed exhibits electronically. In 2022, 13,397 exhibits have been uploaded via the eALJ filing portal.

Indexing

Pursuant to section 120.53(2), all state agencies are required to electronically transmit their agency Final Orders to DOAH's website for indexing purposes. To date, a total of 279,771 documents have been submitted to the Agency Index Documents database, with 26,419 of those uploaded in calendar year 2022.

In calendar year 2021, DOAH began indexing emergency declarations and orders pursuant to section 252.36(3)(b), Florida Statutes. To date, a total of 197 documents have been submitted to the Agency Emergency Documents database, with 141 of those uploaded in calendar year 2022.

Cybersecurity

DOAH has long been concerned with the integrity of its IT systems. This concern has grown out of the general responsibility to those whose private information

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comes into DOAH's possession through electronic means. Actions include developing appropriate walls to keep that private information separate from all but those who are entitled to it; taking appropriate measures to ensure that the users of the Division's systems do not accidentally release confidential information to those not entitled to it; or infect the IT systems with malware or other intrusions. In 2021, DOAH made a significant security investment upgrade by acquiring Palo Alto Next-Generation Firewalls (NGFW) featuring the Cortex Extended Detection and Response (XDR) platform. Cortex XDR is an enterprise detection and response application that integrates network, endpoint, and cloud data to stop sophisticated attacks.

In addition, IT regularly provides cybersecurity training to all DOAH personnel.

OPERATING BUDGET

DOAH is authorized to contract for the provision of ALJ services with entities such as cities, counties, regional planning councils, water management districts, school districts, and other governmental entities. Contract entities reimburse DOAH for the costs of its services at a contract rate based on a total-cost-recovery methodology. DOAH has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. Currently, DOAH has 195 contracts with local government entities to provide adjudicating services. DOAH reviews the contract rate it charges local government entities annually (resulting in a modest increase this year) and will continue to grow contract revenue by actively marketing its services to governmental entities who realize a cost savings due to DOAH's modest contract rate. In addition, DOAH's implementation of Zoom video conference technology has made it possible to provide adjudicatory services to local governments located outside of Tallahassee without charging for travel, thus making DOAH an even more economical option.

The Workers' Compensation Claims Court program is supported by appropriated transfers from the Workers' Compensation Administration Trust Fund. This trust fund receives monies from a workers' compensation premium tax assessment, which supports the entire workers' compensation program. DOAH's budget and expenditure data is attached.

See, Appendix 2

ZOOM VIDEO CONFERENCE TECHNOLOGY

Beginning in 2009, DOAH offered video-teleconferencing capabilities (VTC) in each of its district offices throughout Florida, as well as in Tallahassee. But the peer-to-peer functionality of VTC requires parties to gather in no more than two locations, and the social distancing requirements imposed in early 2020 due to COVID-19 rendered its VTC all but unusable and forced DOAH to look for other alternatives for video conferencing. In March 2020, DOAH began using Zoom web-based technology to conduct hearings by video conference in lieu of in-person or VTC

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hearings. Zoom has proven to be a more reliable and convenient means to conduct hearings by video conference than the peer-to-peer VTC system DOAH implemented in 2009, and DOAH has therefore shuttered the VTC system. To date, DOAH has conducted over 7,300 hearings by Zoom and has upgraded the Zoom video conference technology in all hearing rooms to enable parties and witnesses to attend live hearings remotely.

RECOMMENDATIONS CONCERNING THE APA

DOAH makes no new recommendations for legislative amendment to the Administrative Procedure Act (APA) as of the time of the filing of this report.

CONCLUSION

DOAH, Florida's primary administrative court, offers timely, high-quality objective adjudication of disputes services pursuant to the Administrative Procedure Act. DOAH continues to seek ways to make the process more affordable, and to expand its services to local governments. DOAH is mindful of the costs to parties of proceeding to hearing and seeks to minimize delays by quickly moving cases through the system. This commitment ensures that individuals, businesses, and agencies experience timely, cost effective decision making.

DOAH's Administrative Law Judges and staff look forward to the 50th year of applying the law as written to the facts in disputes that are referred for speedy adjudication.

Respectfully submitted,



BRIAN A. NEWMAN
Director & Chief Judge

**DIVISION OF ADMINISTRATIVE HEARINGS
REQUESTS FOR HEARINGS
FISCAL YEAR 2021-2022**

APPENDIX 1

ENTITY	TOTAL
Agency for Health Care Administration	99
Agency for Persons with Disabilities	6
Department of Agriculture and Consumer Services	17
Department of Business and Professional Regulation	21
Department of Children and Families	42
Baker Act Hearings	1,372
Department of Corrections	1
Department of Economic Opportunity	8
Florida Housing Finance Corporation	17
Department of Education	124
Department of Environmental Protection	44
Department of Financial Services	39
Office of Financial Regulation	1
Office of Insurance Regulation	1
Department of Health	86
Department of Highway Safety and Motor Vehicles	22
Department of Juvenile Justice	6
Department of Law Enforcement	4
Department of Management Services	12
Florida Commission on Human Relations	132
Department of Revenue	23
Child Support Hearings	2,168
Department of Transportation	14
Executive Office of the Governor	4
Fish and Wildlife Conservation Commission	18
Florida Birth-Related Neurological Injury Compensation (NICA)	74
Florida Commission on Ethics	51
Florida Elections Commission	1

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REQUESTS FOR HEARINGS
FISCAL YEAR 2021-2022**

APPENDIX 1

ENTITY	TOTAL
Florida Gaming Control Commission	2
Public Service Commission	2
State Board of Administration	2
County School Boards/Universities/Colleges	356
Growth Management	7
Other Contract Governmental Entities	553
Medical Arbitration	37
TOTAL	5,366

SUMMARY
Division of Administrative Hearings
Actual and Estimated Expenditures

Adjudication of Disputes

	Legislative Appropriations	Actual Expenditures	Current Appropriations
<u>Appropriation Category</u>	<u>FY 2021-22</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>
Salaries and Benefits	\$8,387,977	\$7,756,015	\$8,941,396
Other Personal Services	\$18,082	\$6,444	\$18,082
Expenses	\$1,103,227	\$844,239	\$1,088,974
Operating Capital Outlay	\$32,500	\$30,053	\$32,500
Special Categories			
Contracted Services	\$275,495	\$252,259	\$275,495
Contracted Legal Svcs.	\$33,000	\$4,800	\$8,500
Risk Mgmt. Ins.	\$28,019	\$28,019	\$28,300
Lease/Purch/Equip	\$24,000	\$13,973	\$24,000
TR/DMS/HR SVCS	<u>\$22,177</u>	<u>\$21,949</u>	<u>\$23,302</u>
Total Program Budget	<u>\$9,924,477</u>	<u>\$8,957,751</u>	<u>\$10,440,549</u>
Total Program Positions	75	75	72

Workers' Compensation Claims Court

	Legislative Appropriations	Actual Expenditures	Current Appropriations
<u>Appropriation Category</u>	<u>FY 2021-22</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>
Salaries and Benefits	\$14,311,180	\$13,304,100	\$15,914,696
Other Personal Services	\$19,836	\$15,164	\$17,836
Expenses	\$3,008,228	\$2,828,515	\$2,754,457
Operating Capital Outlay	\$130,950	\$98,811	\$38,950
Special Categories			
Contracted Services	\$970,324	\$963,139	\$983,324
Contracted Legal Svcs.	\$69,279	\$10,200	\$8,779
Tenant Broker Commissions	\$42,961	\$42,960	\$0
Risk Mgmt. Ins.	\$42,288	\$42,288	\$35,535
Lease/Purchase/Equip	\$34,000	\$19,595	\$32,000
TR/DMS/HR SVCS	<u>\$52,670</u>	<u>\$52,129</u>	<u>\$50,703</u>
Total Program Budget	<u>\$18,681,716</u>	<u>\$17,376,901</u>	<u>\$19,836,280</u>
Total Program Positions	165	165	144

TOTAL DIVISION BUDGET	<u>\$28,606,193</u>	<u>\$26,334,652</u>	<u>\$30,276,829</u>
TOTAL DIVISION POSITIONS	240	240	216