



**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

January 31, 2024
FIFTIETH 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 for FY 2022-23.

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 (APA). 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 2023. 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
- Department of Agriculture and Consumer Services
- Department of Business and Professional Regulation
- Department of Children and Families (DCF)

¹ DOAH also hears cases involving Medical Arbitration (§§ 766.201-766.212, Fla. Stat.). Medical Arbitration cases (47 cases in FY 2022-23) pay nothing, which is far below the costs of utilization.

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- Baker Act Hearings
- Department of Corrections
- Department of Economic Opportunity²
 - Florida Housing Finance Corporation
- Department of Education
- Department of Elder Affairs
- 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 Legal Affairs
- Department of Management Services
 - Florida Commission on Human Relations
 - Public Employees Relations Commission
- Department of Revenue (DOR)
 - Child Support Hearings
- Department of State
- Department of Transportation
- Executive Office of the Governor
- Fish and Wildlife Conservation Commission
- Florida Commission on Ethics
- Florida Gaming Control 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 2022-23, each Administrative Law Judge (ALJ) conducted an average of 183 hearings and wrote an average of 90 Recommended or Final Orders of varying length and complexity. In addition, each ALJ closed an average of 53 cases (excluding Baker Act cases), which were settled or otherwise dismissed without a final hearing.

Alternative Dispute Resolution Program

In FY 2022-23, DOAH implemented an Alternative Dispute Resolution (ADR) program. In an ADR case, a second ALJ is assigned to the case as the "ADR Judge." A final hearing is set and the case proceeds on the typical procedural course, except that the ADR Judge invites the parties to participate in a confidential settlement

² Effective July 1, 2023, the Department of Economic Opportunity was renamed the Department of Commerce.

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conference that the ADR Judge conducts by Zoom video conference well before the final hearing. The Zoom settlement conference is voluntary for all and there is no cost to participate. The parties are encouraged to discuss the dispute and narrow the issues, in hopes that the case may be resolved to the mutual benefit of the parties.

If the case is amicably resolved at the Zoom settlement conference, the ADR Judge issues a report so advising the ALJ assigned to conduct the final hearing, and jurisdiction of the case is promptly relinquished to the agency. If the parties impasse, the case proceeds to final hearing as scheduled.

Overall, the ADR program has been successful, allowing many parties to settle their dispute or narrow the disputed issues for the final hearing.

UTILIZATION OF PERSONNEL

As of June 30, 2023, the Adjudication of Disputes program had 72 established positions, consisting of the Chief Judge, the Executive Director/Deputy Chief Judge, 30 ALJs, 10 legal assistants, and 30 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. Party preference for Zoom video conference hearings has also dramatically reduced ALJ travel time in favor of office time.

The Workers' Compensation Claims Court program had 144 established positions in 13 locations, consisting of 1 Deputy Chief Judge, 31 Judges of Compensation Claims (JCCs), 30 Mediators, and 82 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 2022-23. In addition, the OJCC has reduced its long-standing JCC administrative support complement from 3 to 2, mostly by attrition. Accordingly, DOAH reduced OJCC positions by 8.

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 2023, there were 52,876 documents uploaded via the eALJ filing portal; 52,873 documents were served (via email) to 223,354 parties of record. Additionally, 585,943 documents were uploaded via the eJCC filing portal; 787,395 documents were electronically served to 2,038,863 parties of record. DOAH continues to encourage electronic filing while acknowledging pro se party limitations on the uniform application to this requirement.

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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 2023, a total of 20,602 exhibits were 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 313,103 documents have been submitted to the Agency Index Documents database, with 32,006 of those uploaded in calendar year 2023.

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 332 documents have been submitted to the Agency Emergency Documents database, with 129 of those uploaded in calendar year 2023.

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 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, and taking appropriate measures to ensure that the users of DOAH'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 229 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

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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 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 implemented by DOAH in 2009. In 2022, DOAH transitioned from the VTC system to Zoom and upgraded the Zoom video conference technology in all hearing rooms to enable parties and witnesses to attend live hearings remotely. To date, DOAH has conducted over 11,300 final hearings by Zoom.

RECOMMENDATIONS CONCERNING THE APA

DOAH makes no new recommendations for legislative amendment to the 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 APA. 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.

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The ALJs and staff of DOAH look forward to another year of applying the law as written to the facts in disputes that are referred for speedy adjudication.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darren A. Schwartz", with a stylized flourish at the end.

DARREN A. SCHWARTZ
Interim Director & Chief Judge

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REQUESTS FOR HEARINGS
FISCAL YEAR 2022-2023**

ENTITY	TOTAL
Agency for Health Care Administration	67
Agency for Persons with Disabilities	5
Department of Agriculture and Consumer Services	27
Department of Business and Professional Regulation	22
Department of Children and Families	78
Baker Act Hearings	1,394
Department of Commerce ³	62
Florida Housing Finance Corporation	14
Department of Corrections	5
Department of Education	143
Department of Elder Affairs	1
Department of Environmental Protection	36
Department of Financial Services	47
Office of Financial Regulation	2
Office of Insurance Regulation	3
Department of Health	125
Department of Highway Safety and Motor Vehicles	19
Department of Juvenile Justice	1
Department of Law Enforcement	18
Department of Legal Affairs	1
Department of Management Services	18
Florida Commission on Human Relations	162
Public Employees Relations Commission	1
Department of Revenue	23
Child Support Hearings	2,631
Department of State	2
Department of Transportation	9

³ Formerly Department of Economic Opportunity

Executive Office of the Governor	21
Fish and Wildlife Conservation Commission	6
Florida Birth-Related Neurological Injury Compensation Association (NICA)	63
Florida Commission on Ethics	35
Florida Gaming Control Commission	5
State Board of Administration	1
County School Boards/Universities/Colleges	383
Water Management Districts	9
Other Contract Entities	757
Medical Arbitration Hearings	47
Growth Management Hearings	18
TOTAL REQUESTS FOR HEARINGS	6,261

SUMMARY
Division of Administrative Hearings
Actual and Estimated Expenditures

Adjudication of Disputes

<u>Appropriation Category</u>	Legislative Appropriations <u>FY 2022-23</u>	Actual Expenditures <u>FY 2022-23</u>	Current Appropriations <u>FY 2023-24</u>
Salaries and Benefits	\$8,941,396	\$8,484,005	\$11,500,634
Other Personal Services	\$18,082	\$5,376	\$18,082
Expenses	\$1,088,974	\$911,631	\$1,160,000
Operating Capital Outlay	\$32,500	\$5,937	\$32,500
Special Categories			
Contracted Services	\$275,495	\$272,748	\$275,495
Contracted Legal Svcs.	\$8,500	\$3,750	\$8,500
Risk Mgmt. Ins.	\$28,300	\$28,300	\$50,881
Lease/Purch/Equip	\$24,000	\$14,422	\$24,000
TR/DMS/HR SVCS	<u>\$23,302</u>	<u>\$23,302</u>	<u>\$27,055</u>
Total Program Budget	<u>\$10,440,549</u>	<u>\$9,749,471</u>	<u>\$13,097,147</u>
Total Program Positions	72	72	80

Workers' Compensation Claims Court

<u>Appropriation Category</u>	Legislative Appropriations <u>FY 2022-23</u>	Actual Expenditures <u>FY 2022-23</u>	Current Appropriations <u>FY 2023-24</u>
Salaries and Benefits	\$15,899,696	\$14,484,590	\$16,940,181
Other Personal Services	\$32,836	\$22,773	\$17,836
Expenses	\$2,754,457	\$2,575,735	\$2,728,172
Operating Capital Outlay	\$38,950	\$13,541	\$38,950
Special Categories			
Contracted Services	\$983,324	\$704,661	\$983,324
Contracted Legal Svcs.	\$8,779	\$3,750	\$8,779
Tenant Broker Commissions	\$17,257	\$17,256	\$5,631
Risk Mgmt. Ins.	\$35,535	\$35,535	\$36,017
Lease/Purchase/Equip	\$32,000	\$18,291	\$32,000
TR/DMS/HR SVCS	<u>\$50,703</u>	<u>\$50,703</u>	<u>\$50,914</u>
Total Program Budget	<u>\$19,853,537</u>	<u>\$17,926,835</u>	<u>\$20,841,804</u>
Total Program Positions	144	144	136

TOTAL DIVISION BUDGET	<u>\$30,294,086</u>	<u>\$27,676,306</u>	<u>\$33,938,951</u>
TOTAL DIVISION POSITIONS	216	216	216