

State of Florida
Division of Administrative Hearings

Sharyn L. Smith
Director and Chief Judge
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February 1, 2000

TWENTY-SIXTH ANNUAL REPORT

This report is submitted to the Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Section 120.65(10), 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.

GENERAL

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates that, in descending order, nine agencies utilize 85 percent of the Division's docket: the

Agency for Health Care Administration, Department of Health, Department of Business and Professional Regulation, Department of Environmental Protection, Department of Children and Family Services, Department of Community Affairs, Department of Insurance, Department of Transportation, and Department of Management Services. Additionally, the Water Management Districts have become a major user of the Division's services, and are reported separately since they are covered by contractual agreements. School districts are also major users and are reported separately as well.

UTILIZATION OF PERSONNEL

The Division has 75 positions comprised of the Director and Chief Judge, Deputy Chief Judge, 1 Executive Assistant, 3 Court Reporters, 37 Administrative Law Judges, 3 Administrative Assistants, 10 Administrative Secretaries, 1 Personnel Officer, 1 Budget Director, 1 Administrative Services Director, 1 Accountant, 1 Fiscal Assistant, 1 Purchasing Agent, 1 Distributed Computer Systems Analyst, 1 Office Automation Specialist, 1 Computer Operator, 1 Division Clerk, 1 Deputy Clerk Supervisor, 4 Deputy Clerks, 2 Staff Assistants, and 2 Senior Clerks.

IN-HOUSE COURT REPORTERS

The Division continues to employ three full-time court reporters. These reporters covered 73.07% of all DOAH

Tallahassee final hearings in FY 1998-99, and produced a total of 21,575 pages of transcription.

The combined cost avoidance to state agencies for their utilization of the Division's court reporters rather than private sector reporters for Tallahassee hearings during FY 1998-99 was approximately \$86,000.00.

The agencies realizing the greatest court reporting savings were the agencies that utilized the Division's in-house reporters the most.

In addition to the cost avoidance realized by other state agencies the court reporting program generated revenue in excess of \$80,000.00.

HEARING REQUESTS

During calendar year 1999, the Division processed 5,420 hearing requests. Of these cases, 2,240 were Baker Act cases. The remaining 3,180 cases were filed pursuant to Sections 120.535, 120.54, 120.56, and 120.57, Florida Statutes. The cases opened are itemized by agency in the attached Appendix 2.

In 1999, the following agencies markedly increased their hearing requests. The Department of Health referred 415 cases, an increase of 26.52 percent over the 328 cases filed the previous year. Notable to this agency increase is, 105 cases referred from the Board of Medicine, an increase of 29.63 percent when compared to the 81 cases filed in 1998. Referrals from the Board of Nursing also increased from 37 cases in 1998 to 103

cases filed in 1999, a significant increase of 178.38 percent. Similarly, the Water Management Districts filed 134 cases in 1999, a 78.67 percent increase over the 75 cases filed the previous year. Cases dealing with the placement of exceptional education students also increased significantly. These cases are expedited, requiring that a final order be issued 45 days after the request for hearing is filed, and are usually scheduled for a hearing date the same day that the Judge receives the case file. A total of 179 exceptional education cases were filed in 1999, an increase of 64 cases, or 55.65 percent, when compared to the 115 exceptional education cases filed in 1998.

In 1999 the Division held a total of 3,229 hearings and closed 5,362 cases. Each Administrative Law Judge handled an average of 175 new cases, conducted an average of 104 hearings, wrote an average of 90 recommended or final orders of varying length and complexity, and closed an average of 173 cases.

OFFICE AUTOMATION

The primary systems applications for the Division are its Case Management System (CMS) and a full-text retrieval and document indexing application. Secondary applications include word processing, electronic mail and online legal research via the Florida Legal Resource Center, Westlaw and other Internet resources. In 1999, the Division implemented a new module in its Case Management System which allows the automated generation of form orders with minimal user input. Due to construction at the

Division's building, Administrative Law Judges were encouraged to telecommute and were provided with laptop computer and round-the-clock connections to the DOAH network.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the Division's actual and estimated expenditures for FY 1998-99 and FY 1999-2000, respectively. Appendix 3 also outlines funds requested in the Division's FY 2000-2001 Legislative Budget Request.

Each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours scheduled by all agencies. Based on this data, the Division's budget is prorated among those agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the number of hours it schedules for prehearing conferences, motion hearings, final hearings, and cancelled hearings in a given year. In August 1999, the Division submitted its thirteenth report (see Appendix 1). Of the 28,051 hearing hours scheduled with the Division, a total of 22,207 hours were cancelled or continued.

The Division is also authorized to enter into contracts with cities, counties, regional planning councils, water management districts, and other organizations for the provision of Administrative Law Judge services. These organizations, as well

as school districts and other educational entities, reimburse the Division for the costs of these services at the current contract rate and in accordance with applicable laws.

RECOMMENDATIONS CONCERNING THE A.P.A.

Chapter 96-159, Laws of Florida, substantially reorganized the Administrative Procedure Act. The Division has no current recommendations concerning this Act.

Respectfully submitted,



SHARYN L. SMITH
Chief Judge

SLS/js

6/30/99

HEARING HOURS SCHEDULED REPORT

FY 1998-99

For the Period 07/01/98 through 06/30/99

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	CANCELLED/ CONTINUED HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF 2000-01 LBR
AHCA	2.25	26.50	4,563.25	545.00	5,137.00	21.97906%	\$1,893,165
AGR	0.00	3.00	164.00	25.00	192.00	0.82149%	\$70,759
CMP	0.00	26.75	583.00	93.00	702.75	3.00677%	\$258,988
DBPR	3.00	31.00	2,735.25	527.50	3,296.75	14.10540%	\$1,214,969
DCF	6.00	28.00	1,258.00	490.25	1,782.25	7.62550%	\$656,822
DCA	5.00	7.00	1,029.00	293.75	1,334.75	5.71083%	\$491,902
COR	0.00	2.00	22.00	30.50	54.50	0.23318%	\$20,085
DOE	0.00	2.00	299.00	102.00	403.00	1.72427%	\$148,520
ELDER	0.00	0.00	8.00	0.00	8.00	0.03423%	\$2,948
DEP	5.50	17.75	1,668.75	221.75	1,913.75	8.18813%	\$705,284
ETH	0.00	1.50	141.00	78.00	220.50	0.94343%	\$81,262
GOV	0.50	4.00	78.00	1.00	83.50	0.35726%	\$30,773
DOH	1.75	36.00	2,795.00	466.25	3,299.00	14.11503%	\$1,215,797
HSM	0.00	11.50	380.00	113.00	504.50	2.15854%	\$185,926
INS	0.75	29.00	1,028.50	179.75	1,238.00	5.29688%	\$456,246
JUV	0.00	0.25	38.00	14.75	53.00	0.22676%	\$19,532
LES	0.00	5.50	172.00	23.00	200.50	0.85785%	\$73,891
DLE	0.75	2.25	161.00	76.50	240.50	1.02900%	\$88,633
LOT	0.00	0.00	13.75	1.75	15.50	0.06632%	\$5,712
DMS	0.50	19.75	621.00	235.25	876.50	3.75017%	\$323,021
PSC	0.00	4.00	0.00	0.00	4.00	0.01711%	\$1,474
REV	0.25	7.50	557.25	57.00	622.00	2.66128%	\$229,229
DOS	1.25	6.75	199.00	69.25	276.25	1.18196%	\$101,808
DOT	0.00	18.25	769.50	126.00	913.75	3.90955%	\$336,749
TOTAL	27.50	290.25	19,284.25	3,770.25	23,372.25	100.00000%	\$8,613,495

NOTE: Hearing hours scheduled in contract cases (water management districts, regional planning councils, cities, counties, etc.), NICA cases, school district/educational entity cases, and other miscellaneous cases are reported separately.

KEY TO AGENCY TITLE ABBREVIATIONS

<u>Abbreviated Agency Title</u>	<u>Full Agency Title</u>
AHCA	Agency for Health Care Administration
AGR	Department of Agriculture & Consumer Services
CMP	Department of Banking & Finance/Comptroller
DBPR	Department of Business and Professional Regulation
DCF	Department of Children and Families
DCA	Department of Community Affairs
COR	Department of Corrections
DOE	Department of Education
ELDER	Department of Elder Affairs
DEP	Department of Environmental Protection
ETH	Ethics Commission
GOV	Executive Office of the Governor
DOH	Department of Health
HSM	Department of Highway Safety & Motor Vehicles
INS	Department of Insurance and Treasurer
JUV	Department of Juvenile Justice
LES	Department of Labor and Employment Security
DLE	Department of Law Enforcement
LOT	Department of the Lottery
DMS	Department of Management Services
PSC	Public Service Commission
REV	Department of Revenue
DOS	Department of State
DOT	Department of Transportation

06/30/99

HEARING HOURS SCHEDULED BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 1998-99

For the Period 07/01/98 through 06/30/99

<u>AGENCY</u>	<u>PREHEARING CONFERENCE</u>	<u>MOTION HEARING</u>	<u>CANCELLED/ CONTINUED HEARING</u>	<u>FINAL HEARING</u>	<u>TOTAL HOURS</u>	<u>% OF HOURS ALL AGENCIES</u>
CONTRACT	8.25	28.50	727.50	453.25	1,217.50	4.34035%
EPP	0.00	0.00	0.00	1.50	1.50	0.00535%
NICA	0.00	3.25	98.00	65.00	166.25	0.59268%
OTHER	0.00	0.25	51.00	5.50	56.75	0.20231%
SCHBDS	16.50	72.50	2,045.75	1,101.75	3,236.50	11.53802%
TOTAL	24.75	104.50	2,922.25	1,627.00	4,678.50	16.67870%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc.
EPP: Cases filed by DEP, pursuant to Chapter 403, Florida Statutes.
NICA: Florida Birth-Related Neurological Injury Compensation Association
OTHER: Noncontract entities such as Pinellas County Construction Licensing Board
SCHBDS: School boards and other educational entities

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Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 1999

AGENCY	Jan-June	Jul-Dec	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	18	25	43
Produce disputes	5	8	13
Agency Total	23	33	56
Department of Children and Family Services			
Department of Children and Family Services	2	0	2
Alcoholic, Drug Abuse and Mental Health	0	1	1
Developmental Services	3	10	13
Disabled or elderly adult abuse or neglect	78	61	139
Economic Self-Sufficiency	1	1	2
Exemption 435.07, position of special trust	28	27	55
Family Safety and Preservation Programs	42	31	73
Non-Baker Act Total	154	131	285
Contract Hearings			
Alachua County	0	1	1
Citrus County	1	0	1
City of Cape Coral	1	0	1
City of Clearwater	3	1	4
City of Tallahassee	1	0	1
Clay County	1	2	3
County of Hillsborough	1	0	1
County of Monroe	2	1	3
Pinellas County Sheriff's Civil Service Board	1	3	4
Tampa Bay Regional Planning Council	1	1	2
Town of Palm Beach	2	0	2
Agency Total	14	9	23
City of Lake Worth (self-contained agency)			
City of Lake Worth (self-contained agency)	1	0	1
Agency Total	1	0	1
Office of Comptroller			
Office of Comptroller	17	0	17
Division of Securities	6	2	8
Agency Total	23	2	25
Department of Corrections			
Department of Corrections	4	4	8
Agency Total	4	4	8

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Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 1999

AGENCY	Jan-June	Jul-Dec	TOTAL
County School Boards			
Alachua County School Board	1	0	1
Bay County School Board	4	1	5
Bradford County School Board	0	2	2
Brevard County School Board	4	2	6
Broward County School Board	16	14	30
Clay County School Board	1	1	2
Collier County School Board	2	0	2
DeSoto County School Board	1	0	1
Duval County School Board	5	8	13
Escambia County School Board	0	4	4
Flagler County School Board	0	1	1
Gadsden County School Board	0	1	1
Gulf County School Board	2	2	4
Hendry County School Board	0	2	2
Highlands County School Board	4	0	4
Hillsborough County School Board	3	2	5
Indian River County School Board	1	0	1
Lafayette County School Board	1	2	3
Lake County School Board	4	15	19
Lee County School Board	3	4	7
Leon County School Board	1	1	2
Marion County School Board	0	3	3
Martin County School Board	26	26	52
Miami-Dade County School Board	1	1	2
Monroe County School Board	1	0	1
Nassau County School Board	0	1	1
Okaloosa County School Board	1	1	2
Okeechobee County School Board	4	13	17
Orange County School Board	3	3	6
Osceola County School Board	15	15	30
Palm Beach County School Board	0	4	4
Pasco County School Board	3	3	6
Pinellas County School Board	4	3	7
Polk County School Board	0	1	1
Putnam County School Board	2	1	3
Sarasota County School Board	2	0	2
Section 504 cases	14	6	20
Seminole County School Board	1	0	1
St Johns County School Board	6	1	7
St Lucie County School Board	2	0	2
Volusia County School Board	2	0	2
Walton County School Board	140	145	285
Agency Total			
City of Tampa (self-contained agency)	0	1	1
City of Tampa (self-contained agency)	0	1	1
Agency Total			
Department of Banking and Finance			
Department of Banking and Finance	16	12	28
Division of Securities and Finance	4	2	6
Agency Total	20	14	34

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Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 1999

AGENCY	Jan-June	Jul-Dec	TOTAL
Department of Community Affairs	36	27	63
Department of Community Affairs	4	3	7
Florida Housing Finance Corporation	40	30	70
Agency Total			
Department of Elder Affairs	1	0	1
Department of Elder Affairs	1	0	1
Agency Total			
Department of Environmental Protection	83	53	136
Department of Environmental Protection	83	53	136
Agency Total			
Department of Health	2	0	2
Department of Health	0	3	3
Bureau of Emergency Medical Services	1	0	1
Division of Disease Control	2	4	6
Division of Family Services	23	22	45
Environmental Health	1	0	1
MQA/Board of Acupuncture	3	14	17
MQA/Board of Chiropractic	3	1	4
MQA/Board of Clinical Social Work, Marriage and Fa	4	62	66
MQA/Board of Dentistry	2	2	4
MQA/Board of Massage	42	63	105
MQA/Board of Medicine	13	90	103
MQA/Board of Nursing	0	2	2
MQA/Board of Nursing Home Administrators	2	0	2
MQA/Board of Opticianry	2	10	12
MQA/Board of Optometry	4	1	5
MQA/Board of Orthotists and Prosthetists	3	2	5
MQA/Board of Osteopathic Medicine	1	6	7
MQA/Board of Pharmacy	2	1	3
MQA/Board of Physical Therapy Practice	0	1	1
MQA/Board of Podiatric Medicine	6	5	11
MQA/Board of Psychology	1	2	3
MQA/Clinical Laboratory Personnel	1	0	1
MQA/Hearing Aid Specialist	6	0	6
Vital Statistics	124	291	415
Agency Total			
Department of Juvenile Justice	3	11	14
Department of Juvenile Justice	3	11	14
Agency Total			
Department of Legal Affairs	5	1	6
Florida Elections Commission	5	1	6
Agency Total			
Department of Law Enforcement	0	1	1
Department of Law Enforcement	11	8	19
Criminal Justice Standards and Training	11	9	20
Agency Total			

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Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 1999

AGENCY	Jan-June	Jul-Dec	TOTAL
Department of Management Services			
Department of Management Services	16	4	20
Division of Retirement	9	9	18
Division of State Employees Insurance	5	2	7
Florida Commission on Human Relations	26	33	59
Agency Total	56	48	104
Department of Education			
Department of Education	8	0	8
Education Practices Commission	39	21	60
Agency Total	47	21	68
Department of Lottery			
Department of Lottery	0	2	2
Agency Total	0	2	2
Department of State			
Division of Licensing	16	11	27
Agency Total	16	11	27
Department of Transportation			
Department of Transportation	125	59	184
Agency Total	125	59	184
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	1	7	8
Barber's Board	2	0	2
Board of Accountancy	2	0	2
Board of Architecture	0	1	1
Board of Cosmetology	1	0	1
Board of Employee Leasing	0	1	1
Board of Professional Engineers	13	8	21
Board of Veterinary Medicine	0	1	1
Building Code Administrators and Inspectors	1	2	3
Construction Industry Licensing Board	42	14	56
Division of Alcoholic Beverages and Tobacco	69	61	130
Division of Hotels and Restaurants	7	5	12
Division of Pari-Mutuel Wagering	5	4	9
Division of Real Estate	15	27	42
Electrical Contractors	12	4	16
Florida Real Estate Appraisal Board	6	3	9
Florida Real Estate Commission	30	15	45
Land Sales, Condominiums, and Mobile Homes	10	5	15
Regulatory Council of Community Association Manage	0	5	5
Agency Total	216	163	379
Ethics Commission			
Ethics Commission	5	7	12
Agency Total	5	7	12

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Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 1999

AGENCY	Jan-June	Jul-Dec	TOTAL
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	0	1	1
DEP/Marine Fisheries Commission prior to 7/1/99	1	0	1
Agency Total	1	1	2
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	1	0	1
Agency Total	1	0	1
Office of the Governor			
Office of the Governor	1	0	1
Administration Commission	1	0	1
Florida Land and Water Adjudicatory Commission	5	4	9
Agency Total	7	4	11
Agency for Health Care Administration			
Agency for Health Care Administration	5	1	6
Audit Quality Control Services	18	6	24
Cost Management and Control	0	5	5
Exemption 400.512, home health	5	2	7
Hospital Cost Containment Board	5	0	5
Medicaid Program Integrity	36	53	89
Office of Certificate of Need	49	23	72
Office of Licensure and Certification	117	71	188
Agency Total	235	161	396
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	29	19	48
Agency Total	29	19	48
Department of Insurance			
Department of Insurance	73	105	178
Neurological Injury Compensation Association	25	16	41
Rate, automobile, and casualty disputes	2	2	4
Agency Total	100	123	223
Department of Labor and Employment Security			
Department of Labor and Employment Security	0	1	1
Blind Services (DOE effective 10/1/99)	3	0	3
Division of Jobs and Benefits	4	0	4
Division of Unemployment Compensation	0	1	1
Division of Vocational Rehabilitation	9	7	16
Division of Workers Compensation	10	12	22
Minority Business Advocacy and Assistance	6	5	11
Agency Total	32	26	58
Medical Arbitration			
Medical Arbitration	6	5	11
Agency Total	6	5	11
Orlando Urban Area, Metropolitan Planning Organization			
Orlando Urban Area, Metropolitan Planning Organiza	2	0	2
Agency Total	2	0	2

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 1999

AGENCY	Jan-June	Jul-Dec	TOTAL
Pinellas County Construction Licensing Board			
Pinellas County Construction Licensing Board	8	5	13
Agency Total	8	5	13
Parole and Probation Commission			
Parole and Probation Commission	2	0	2
Agency Total	2	0	2
Public Service Commission			
Public Service Commission	2	5	7
Agency Total	2	5	7
Department of Revenue			
Department of Revenue	43	59	102
Agency Total	43	59	102
Universities, Colleges and Schools			
Board of Regents	3	0	3
Brevard Community College	1	0	1
Florida A & M University	1	2	3
Florida Atlantic University	0	1	1
Florida State University	0	1	1
School for the Deaf and Blind	0	1	1
University of Central Florida	0	1	1
University of North Florida	1	0	1
University of South Florida	1	0	1
Agency Total	7	6	13
Wages Coalition of Hillsborough County			
Wages Coalition of Hillsborough County	1	0	1
Agency Total	1	0	1
Water Management Districts			
South Florida Water Management District	5	3	8
Southwest Florida Water Management District	100	9	109
St. Johns River Water Management District	11	5	16
Suwannee River Water Management District	1	0	1
Agency Total	117	17	134
NON BAKER ACT TOTAL	1,704	1,476	3,180

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Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 1999

AGENCY	Jan-June	Jul-Dec	TOTAL
Baker Acts			
Apalachee Center for Human Services	11	8	19
Atlantic Shores State Hospital	196	197	393
Charter Hospital of Tampa	2	0	2
Correctional Mental Health Institute	1	8	9
Florida State Hospital	207	180	387
G. Pierce Woods Memorial Hospital	244	241	485
Northeast Florida State Hospital	456	359	815
Northpointe Hospital	9	8	17
Peace River Center	0	1	1
Sarasota Palms Hospital	9	9	18
Veterans Administration Medical Center	33	17	50
West Florida Community Care Center	26	18	44
Baker Act Total	1,194	1,046	2,240
GRAND TOTAL			5,420

SUMMARY
 Division of Administrative Hearings
 Actual and Estimated Expenditures
 and Legislative Budget Request

<u>Appropriation Category</u>	<u>Actual Expenditures FY 1998-99</u>	<u>Estimated Expenditures FY 1999-00</u>	<u>Requested* FY 2000-01</u>
Salaries and Benefits	\$5,218,444	\$5,857,890	\$6,609,048
Program Budget*			
„St. Oper. Prg.	0	0	1,977,724
Other Personal Services	298,174	481,242	0
Expenses	936,334	1,153,503	0
Operating Capital Outlay	143,250	87,077	0
Special Categories			
Risk Mgmt. Ins.	<u>14,485</u>	<u>26,723</u>	<u>26,723</u>
Total	<u>\$6,610,687</u>	<u>\$7,606,435</u>	<u>\$8,613,495</u>
Positions	71	75	80

*The Division submitted its first Performance-Based Program Budget in September, 1999, which covers the FY 2000-2001 Fiscal Year.