



**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

February 1, 2022
FORTY-EIGHTH 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 2020-21.

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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 2021. 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 Revenue (DOR)
 - Child Support Hearings
- Department of Management Services
- Department of Health
- Department of Education
- Department of Children and Families (DCF)
 - Baker Act Hearings
- Department of Financial Services
 - Office of Financial Regulation
 - Office of Insurance Regulation
- Department of Business and Professional Regulation
- Department of Environmental Protection
- Department of Highway Safety and Motor Vehicles
- Department of Agriculture and Consumer Services
- Florida Commission on Ethics
- Florida Commission on Human Relations

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 2020-21, each Administrative Law Judge (ALJ) conducted an average of 181 hearings and wrote an average of 77 Recommended or Final Orders of varying length and complexity. In addition, each ALJ closed an average of 75 cases

¹ DOAH also hears cases involving Medical Arbitration (Sections 766.201-766.212, Fla. Stat.), Neurological Injury Compensation Association (NICA) (Sections 766.301-766.316, Fla. Stat.), and Baker Act commitments outside the agency transfer funding policy. Medical Arbitration cases pay nothing (50 cases in FY 2020-21); NICA cases pay a filing fee of \$15 (47 cases in FY 2020-21), far below the costs of utilization; Baker Act cases (1,555 in FY 2020-21), which may not be heard (for now) by Zoom (*See, John Doe v. State, 217 So. 3d 1020 (Fla. 2017)*), make them even more costly as ALJ time and travel costs to the 128 Baker Act receiving and treatment facilities are unfunded by DCF transfers.

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(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, 2021, the Adjudication of Disputes program had 65 established positions, consisting of the Chief Judge, the Executive Director/Deputy Chief Judge, 31 ALJs, 9 legal assistants, and 25 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 hearings (dramatically reducing ALJ travel time in favor of office time), DOAH has recommended reducing the number of ALJ positions from 31 to 29.

The Workers' Compensation Adjudication program had 175 established positions in 17 statutorily mandated locations, consisting of 1 Deputy Chief Judge and 31 Judges of Compensation Claims (JCCs), 30 Mediators, and 113 administrative support staff (including the Clerk's Office). In 2021, the OJCC adjusted its long-standing JCC administrative support complement from 4 to 3, mostly by attrition. Accordingly, DOAH recommended reducing OJCC positions by 20 with an additional 11 planned reductions for FY 2023-24.

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 2021, there were 32,497 documents uploaded via the eALJ filing portal; 33,144 documents were served (via email) to 126,264 parties of record. Additionally, 556,694 documents were uploaded via the eJCC filing portal; 753,582 documents were electronically served to 1,891,640 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.

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 250,557 documents have been submitted to the Agency Index Documents database, with 26,061 of those uploaded in calendar year 2021.

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In calendar year 2021, DOAH began indexing emergency declarations and orders pursuant to section 252.36(3)(b), Florida Statutes.

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; 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

Previously, DOAH reported the total number of hearing hours conducted by ALJs for all agencies to the Legislature and the Governor's Office as a metric to prorate its budget among agency users. This "hearing hour" metric has proven flawed for proration purposes, so DOAH changed to a "cases filed" metric as a more accurate and equitable method to prorate the Division's budget request for FY 2022-23.

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 190 contracts with local government entities to provide adjudicating services. DOAH reviews the contract rate it charges local government entities annually (resulting in a modest decrease 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 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 Adjudication program is supported by appropriated transfers from the Workers' Compensation Administration Trust Fund. This trust fund receives monies from a workers' compensation premium tax

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assessment, which supports the entire workers' compensation program. DOAH's budget and expenditure data is attached.

See, Appendix 2

ZOOM TECHNOLOGY

Beginning in 2009, DOAH offered video-teleconferencing capabilities (VTC) in each of its 17 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 in lieu of in-person or VTC hearings. Zoom has proven to be a more reliable and convenient means to conduct hearings 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 4,700 hearings by Zoom and has upgraded the Zoom 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). The issues raised for potential change in the 2019 report (respectively filing and indexing Agency Final Orders) continue to offer opportunity for improvement.

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 49th year of applying the law as written to the facts in disputes that are referred for speedy adjudication.

Respectfully submitted,



PETER ANTONACCI
Chief Judge

**DIVISION OF ADMINISTRATIVE HEARINGS
REQUESTS FOR HEARINGS
FISCAL YEAR 2020-2021**

APPENDIX 1

ENTITY	TOTAL
Agency for Health Care Administration	111
Agency for Persons with Disabilities	18
Department of Agriculture and Consumer Services	25
Department of Business and Professional Regulation	50
Department of Children and Family Services	69
Baker Act Hearings	1,555
Department of Corrections	1
Department of Economic Opportunity	4
Florida Housing Finance Corporation	18
Department of Education	102
Department of Environmental Protection	46
Department of Financial Services	59
Office of Financial Regulation	2
Office of Insurance Regulation	1
Department of Health	132
Department of Highway Safety and Motor Vehicles	26
Department of Juvenile Justice	1
Department of Law Enforcement	2
Department of Management Services	22
Florida Commission on Human Relations	181

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REQUESTS FOR HEARINGS
FISCAL YEAR 2020-2021**

APPENDIX 1

ENTITY	TOTAL
Department of Revenue	15
Child Support Hearings	2,051
Department of State	1
Department of Transportation	19
Department of Veterans Affairs	1
Fish and Wildlife Conservation Commission	18
Office of the Governor	2
Florida Birth-Related Neurological Injury Compensation (NICA)	48
Florida Commission on Ethics	25
Florida Elections Commission	1
Growth Management	7
County School Boards	270
Other Governmental Entities	46
Medical Arbitration	50
State Board of Administration	8
TOTAL	4,987

SUMMARY

Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

Appropriation Category	Legislative		Actual		Current		Requested	
	FY 2020-21	FY 2020-21	Expenditures	FY 2020-21	Appropriations	FY 2021-22	Appropriations	FY 2022-23
Salaries and Benefits	\$7,576,600	\$7,495,011	\$7,495,011	\$8,387,977	\$8,473,121	\$18,082	\$18,082	\$1,096,474
Other Personal Services	\$958,147	\$817,375	\$817,375	\$1,103,227	\$32,500	\$275,495	\$1,000	\$28,019
Expenses	\$48,000	\$40,519	\$40,519	\$275,495	\$33,000	\$24,000	\$24,000	\$21,262
Operating Capital Outlay								
Special Categories								
Contracted Services	\$225,495	\$225,332	\$225,332	\$275,495	\$33,000	\$28,019	\$24,000	\$21,262
Contracted Legal Svcs.	\$53,000	\$24,323	\$24,323	\$33,000	\$28,019	\$24,000	\$21,262	\$9,969,953
Risk Mgmt. Ins.	\$22,538	\$22,538	\$22,538	\$28,019	\$24,000	\$22,177	\$9,924,477	75*
Lease/Purch/Equip	\$24,000	\$16,656	\$16,656	\$24,000	\$22,177	\$9,924,477	75*	
TR/DMS/HR SVCS	\$20,254	\$20,254	\$20,254	\$22,177	\$9,924,477	75*		
Total Program Budget	<u>\$8,946,116</u>	<u>\$8,662,008</u>	<u>\$8,662,008</u>	<u>\$9,924,477</u>	<u>\$9,924,477</u>	<u>\$21,262</u>	<u>\$9,969,953</u>	<u>72</u>
Total Program Positions	65	65	65	75*	75*			

Workers' Compensation Adjudication

Appropriation Category	Legislative		Actual		Current		Requested	
	FY 2020-21	FY 2020-21	Expenditures	FY 2020-21	Appropriations	FY 2021-22	Appropriations	FY 2022-23
Salaries and Benefits	\$14,870,550	\$14,433,252	\$14,433,252	\$14,612,180	\$15,305,580	\$17,836	\$17,836	\$2,761,957
Other Personal Services	\$17,836	\$0	\$0	\$17,836	\$38,950	\$38,950	\$983,324	\$1,279
Expenses	\$2,909,842	\$2,893,949	\$2,893,949	\$2,838,228	\$2,761,957	\$42,288	\$32,000	\$46,265
Operating Capital Outlay	\$64,916	\$59,086	\$59,086	\$38,950	\$38,950	\$46,265	\$19,229,479	144
Special Categories								
Contracted Services	\$1,008,324	\$874,289	\$874,289	\$933,324	\$983,324	\$0	\$42,288	\$32,000
Contracted Legal Svcs.	\$16,279	\$317	\$317	\$69,279	\$1,279	\$0	\$46,265	\$19,229,479
Tenant Broker Commissions	\$26,312	\$26,311	\$26,311	\$13,568	\$0	\$42,288	\$32,000	\$46,265
Risk Mgmt. Ins.	\$47,519	\$47,519	\$47,519	\$42,288	\$34,000	\$52,670	\$19,229,479	144
Lease/Purchase/Equip	\$34,000	\$20,202	\$20,202	\$34,000	\$52,670	\$19,229,479	144	
TR/DMS/HR SVCS	\$59,008	\$59,008	\$59,008	\$52,670	\$46,265	\$19,229,479	144	
Total Program Budget	<u>\$19,054,586</u>	<u>\$18,413,933</u>	<u>\$18,413,933</u>	<u>\$18,652,323</u>	<u>\$19,229,479</u>	<u>\$46,265</u>	<u>\$19,229,479</u>	<u>144</u>
Total Program Positions	175	175	175	165*	165*			

TOTAL DIVISION BUDGET
TOTAL DIVISION POSITIONS

\$28,000,702
240

\$27,075,941
240

\$28,576,800
240

\$29,199,432
216

*Reflects mid-year transfer of 10 administrative positions from Workers' Compensation Adjudication to Adjudication of Disputes program