

Nineteenth Annual Report to
the Governor of Alaska and the Alaska Legislature
from the Office of Administrative Hearings

January 31, 2023

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I. OAH in Context

The Office of Administrative Hearings (OAH) is an independent agency housed in the Department of Administration and charged with providing administrative adjudication services, regulatory review, and training.¹

OAH is the state executive branch’s central hearing panel. A central panel is an independent adjudicative agency which hears executive branch appeals. As described by the National Judicial College, central panels are “panels of administrative law judges who, instead of being attached to a single administrative agency, are assigned to a ‘central,’ ‘independent’ panel that supplies administrative law judges to conduct contested case hearings for a variety of agencies.”² A central panel’s main role “is to provide fair adjudications and due process to both the litigating agencies and the public.”³ Alaska’s OAH is one of roughly 35 central panels nationwide, although the scope of such panels can vary greatly between states.

OAH was created “to increase the separation between the adjudicatory functions of executive branch agencies and the agencies’ investigatory, prosecutory, and policy-making functions.”⁴ In addition, by consolidating adjudicatory functions in a central panel, the creation of OAH has improved efficiency for agency hearings, resulting in overall cost savings to departments, boards, and commissions. By also making OAH’s services available to municipalities, school districts, and other government agencies on a cost-reimbursement basis, the Legislature has further made such savings available to other state-related governmental units.⁵

OAH operates under the supervision of the Chief Administrative Law Judge (Chief ALJ) for whom the law prescribes certain duties and goals.⁶ One of the Chief ALJ’s duties is to:

submit to the governor and the legislature on January 31 of each year the results of the survey [of hearing participants used to monitor the quality of hearings conducted by OAH and other state agencies] along with a report that includes a description of the activities of the office and recommendations for statutory changes that may be needed in relation to the administrative hearings held by the office or other state agencies[.]⁷

This nineteenth such report covers OAH’s activities for calendar year 2022.

¹ See AS 44.64.010 – AS 44.64.020.

² Hon. W. Michael Gillette. *ALJ Central Panels: How’s it Going Out There?* The Judicial Edge (National Judicial College, Sept. 17, 2015). Available online at: <https://www.judges.org/alj-central-panels-how-is-it-going-out-there/> (last visited Jan. 13, 2023).

³ Larry J. Craddock, *Final Decision Authority and the Central Panel ALJ*, 33 J. Nat’l Ass’n Admin. L. Judiciary Iss. 2 (2013). Available online at: <http://digitalcommons.pepperdine.edu/naalj/vol33/iss2/1> (last visited Jan. 13, 2023). See also, Malcolm C. Rich and Alison C. Goldstein, *The Need for a Central Panel Approach to Administrative Adjudication: Pros, Cons, and Selected Practices*, 39 J. Nat’l Ass’n Admin. L. Judiciary 1 (2019) Available at: <https://digitalcommons.pepperdine.edu/naalj/vol39/iss1/1> (last visited Jan. 13, 2023).

⁴ Sec. 1, ch. 163, SLA 2004.

⁵ See AS 44.64.055.

⁶ See AS 44.64.020.

⁷ AS 44.64.020(a)(7).

II. Activities of the Office of Administrative Hearings

OAH's core function is the provision of adjudication (and mediation) services. Ancillary duties of OAH and its Chief Administrative Law Judge include a range of activities to enhance the quality of administrative adjudication through peer review, training, and education of administrative adjudicators; monitoring the hearing process and surveying participants; publishing OAH decisions; reviewing and developing regulations pertaining to administrative hearings; and administering the Code of Hearing Officer Conduct.⁸ This report first discusses OAH's provision of hearing and mediation services before addressing the additional ancillary duties of the Agency and Chief ALJ.

A. Adjudication Services

1. Overview

OAH's adjudication services range from preparing proposed decisions based on parties' written submissions in simple administrative appeals to conducting multi-day or multi-week trial-like evidentiary hearings in complex matters. Some cases heard by OAH's administrative law judges are narrow, single-issue disputes; others are wide-ranging, and involve complicated legal and factual disputes.

Using formal or informal alternative dispute resolution (ADR), or simply through good case management, OAH can resolve many cases within a matter of weeks. Others may remain active for many months, as the parties develop their positions, engage in motion practice, and prepare for detailed presentation of highly technical evidence and argument on complex legal issues. Most cases referred to OAH fall somewhere between these two extremes.

By law, the OAH ALJs are the final decisionmakers in only a few case categories.⁹ When the final decisionmaker is a board or commission, or a principal agency head, OAH's adjudication services can include functioning as a legal adviser to that decisionmaker for the specific case.¹⁰ Whether the final decisionmaker is the ALJ or an agency head, a final decision in an OAH appeal may be appealed to the Superior Court.

Table 1, below, illustrates the reach of OAH's adjudication services under its mandatory jurisdiction, which extends to most executive branch departments.

⁸ See AS 44.64.020(a)(4) - (8); AS 44.64.050; AS 44.64.090; AS 23.30.007(d). By statute, the Chief ALJ is additionally responsible for various duties around appointments to the Workers' Compensation Appeals Commission. AS 44.64.060(a)(12), (13). These obligations are addressed at page 20, and a recommendation at page 22, below.

⁹ In addition to the statutory categories in which OAH makes the final decision, OAH can receive final decision authority by delegation. See 44.64.030(c).

¹⁰ OAH ALJs do not provide general legal advice to the decisionmaker, but rather address legal questions for the decisionmaker only in the context of the specific case under consideration. The Attorney General is the legal adviser to state agencies under most circumstances.

Table 1. Office of Administrative Hearings: Mandatory Jurisdiction

<i>Executive Branch Office, Agency, or Entity</i>	<i>Case Category</i>
Office of the Governor	<ul style="list-style-type: none"> • Human Rights Commission
Office of the Lieutenant Governor	<ul style="list-style-type: none"> • Notaries
Department of Administration	<ul style="list-style-type: none"> • Retirement and Benefits • Contract and Procurement • Claims for Reimbursement • Breach of Security Involving Personal Information
Department of Commerce, Community, and Economic Development	<ul style="list-style-type: none"> • Licensing (Corporations, Businesses, and Professions) • Banking and Securities • Insurance • Alcoholic Beverage Control • Marijuana Control
Department of Education and Early Development	<ul style="list-style-type: none"> • Teacher Certification • PFD Execution
Department of Environmental Conservation	<ul style="list-style-type: none"> • Environmental Permitting • Food Safety
Department of Family & Community Services	<ul style="list-style-type: none"> • Facilities Licensing • Child Protection¹¹
Department of Health	<ul style="list-style-type: none"> • Medicaid Benefits, Audits, & Rates • Public Assistance Benefits • PFD Execution
Department of Labor and Workforce Development	<ul style="list-style-type: none"> • Occupational Safety and Health • PFD Execution
Department of Natural Resources	<ul style="list-style-type: none"> • Land Sale Contracts • Water Rights
Department of Public Safety	<ul style="list-style-type: none"> • Violent Crimes Compensation
Department of Transportation and Public Facilities	<ul style="list-style-type: none"> • Construction Procurement¹²
Department of Revenue	<ul style="list-style-type: none"> • Tax (original jurisdiction¹³) • PFD Eligibility, Charitable Contribution & Fine/Forfeiture • Child Support • Charitable Gaming • Unclaimed Property
University of Alaska	<ul style="list-style-type: none"> • PFD Execution

¹¹ The administrative child protection cases OAH hears for DFCS relate primarily to substantiation of child maltreatment allegations, and serve a purpose different than child protection cases heard by the court system.

¹² OAH hears only some of the Department of Transportation and Public Facilities' construction-related procurement cases under its mandatory jurisdiction. Construction cases subject to arbitration are exempted from OAH's mandatory jurisdiction. DOT&PF also sends some additional cases to OAH on a voluntary basis.

¹³ Under AS 43.05.405, OAH has original jurisdiction over most tax appeals. In this area, OAH functions as the approximate state equivalent of the United States Tax Court.

In addition to these areas of mandatory jurisdiction, agencies may also become parties before OAH by voluntarily referring an individual dispute or a class of disputes to OAH. Additionally, agencies not referring cases to OAH may nonetheless be parties to disputes, such as in procurement protests that OAH hears on behalf of a separate executive branch decisionmaker.

2. *Dockets*

With more than 100 different types of cases across a wide variety of State programs, the scope of OAH's work is as broad as State government itself. What follows is an overview of some of the types of matters that came before OAH in 2022.

Child support. OAH hears administrative appeals of child support establishment and modification orders issued by the Child Support Services Division. Most commonly, parents requesting these hearings assert that their income has been incorrectly calculated, that they are entitled to deductions to lower their support amount, that the non-custodial parent is not paying their fair share of support, or that the ordered amount of support poses an undue hardship on the obligor parent. OAH heard 40 child support cases in 2022. Of these, 29 were ultimately able to be resolved, with an administrative law judge's assistance, through an agreement of the parties; the remaining 11 resulted in formal decisions.

PFD eligibility. OAH hears administrative appeals of PFD applicants whose applications were denied, whether because the application was received after the deadline or because the applicant was found ineligible. In 2022, OAH heard appeals from Alaskans whose jobs kept them out of state for lengthy periods, from service members who were prevented by pandemic-related circumstances from returning to Alaska in 2020 or 2021, and from numerous other applicants disputing a finding of ineligibility. OAH issued 24 formal decisions on PFD eligibility in 2022.

Child maltreatment. OAH hears administrative appeals of parents/caregivers

who have been the subject of a "child maltreatment" finding by the Office of Children's Services (OCS). The maltreatment finding is a confidential civil administrative finding that can affect certain kinds of background checks and eligibility for certain types of employment. An individual for whom such a finding is "substantiated" may request an evidentiary hearing before an OAH administrative law judge. Some such hearings center on whether or not a particular event occurred, while others center more on whether the events that occurred warrant a civil finding of "maltreatment." In its busy child maltreatment docket, OAH issued 13 full decisions on the merits in 2022, as well as another 7 decisions dismissing a matter due to the requestor's repeated failure to appear at scheduled proceedings.

Medicaid and other public benefits. OAH provides "fair hearings" for an array of public benefits programs administered by the Department of Health. In addition to hearings on Medicaid eligibility and eligibility for particular Medicaid programs, OAH administrative law judges hear Alaskans' administrative appeals of agency decisions in Adult Temporary Assistance, Child Care Assistance, Heating Assistance, Food Stamps, and other public benefits programs.

OAH's public assistance and Medicaid docket requires the resolution of questions involving public benefit eligibility, benefit amount, and often determinations regarding a person's medical and physical care needs. These cases are usually presented by non-lawyer agency personnel, and self-represented parties, both of whom can be significantly disadvantaged in navigating the complex and often confusing world of public benefits and Medicaid. OAH's hearing work in these areas requires listening carefully to both sides, determining underlying issues, and issuing accessible decisions that clearly explain both the factual and legal bases for the decision.

In addition to facilitating the resolution of 250 Medicaid appeals through an award-winning Fast-Track Mediation Program, OAH conducted hearings and issued decisions in thirty public benefits cases and twenty-seven Medicaid cases in 2022.

Municipal appeals. OAH's statute allows it to accept hearing work from municipal entities, with those entities then reimbursing OAH for the cost of those services. OAH began performing such work for municipalities around the state in 2016. 2022 was OAH's busiest year yet with this docket, with 15 active cases that included complex municipal planning and zoning appeals, employment disputes, and municipal Board of Ethics matters for five different boroughs or municipal entities. While not every hearing request leads to a hearing and a decision, OAH issued seven formal decisions in this docket in 2022.

Procurement, Contracts, and Claims. OAH also adjudicates state procurement and contract claims. In 2022, OAH adjudicated procurement disputes involving the Department of Transportation & Public Facilities, the Division of Motor Vehicles, the Department of Health, and the Alaska

Energy Authority. OAH also presided over and in 2022 helped resolve a years-long contract dispute between the Department of Transportation & Public Facilities and a construction contractor.

Professional licensing. OAH conducts administrative hearings for all State occupational licensing boards. These cases include proposed discipline (ranging from reprimands to revocation) on a professional's license, requests for license reinstatement, appeals of licensure denial, and appeals of summary license suspensions. OAH's active cases in 2022 included licensing cases on behalf of the Alaska Board of Chiropractic Examiners, the Alaska Board of Marine Pilots, the Alaska Board of Nursing, the Alaska Board of Psychologists and Psychological Associates, the Alaska Board of Social Work Examiners, the Alaska Professional Teaching Practices Commission, the Alaska Police Standards Commission, the Alaska Real Estate Commission, and the Alaska State Medical Board.

In these cases, the OAH administrative law judge typically conducts an evidentiary hearing and prepares a proposed decision for the Board or Commission to consider. OAH's seven professional licensing decisions in 2022 included imposition of discipline ranging from a reprimand to license revocation, as well as consideration of a request to reinstate a previously surrendered license. In other 2022 licensing matters, OAH Administrative Law Judges serving as mediators were able to assist parties in reaching a Board-approved resolution as an alternative to going through the formal hearing process.

University of Alaska. OAH contracts with the University of Alaska to provide hearing services both in employment disputes and to meet the University's heightened hearing

obligations concerning alleged sex-based discrimination under Title IX. OAH heard three university matters this year – two pre-termination hearing matters and one Title IX (sexual harassment) disciplinary hearing. The Title IX matter, in particular, was noteworthy as OAH’s first Title IX hearing under new federal regulations and University procedures

Tax. OAH is the state’s tax court of general jurisdiction, and hears all state income tax appeals, as well as providing adjudicatory assistance to the State Assessment Review Board (SARB). Of particular note in 2022, OAH helped the SARB resolve a decades-

old property tax dispute between the City of Valdez and the State Department of Revenue. Since 1997, the City of Valdez has filed annual property tax appeals claiming the Department of Revenue did not assess tax, or enough tax, on taxable oil spill response vessels in Prince William Sound. For a variety of reasons, these appeals have been accumulating all this time without going to hearing. In 2022, OAH assisted the State Assessment Review Board in finally resolving 26-years’ worth of consolidated appeals so this matter can move forward for review by the superior court.

3. *Caseload by the numbers*

Because OAH’s caseload derives, by definition, from actions by state agencies, the pandemic’s impacts on those agencies have likewise impacted OAH’s caseload since the pandemic began. These impacts were muted earlier in the pandemic, however – and in fact OAH’s overall caseload *increased* in 2021 – because of OAH assisting another Department’s hearing tribunal with a large backlog of pandemic-related cases.

As OAH wrapped up the tail end of that docket in mid-2022, the residual effects of the pandemic on OAH’s standard caseload were starkly apparent. Certain dockets – most notably, Medicaid and other public benefits cases – have been significantly reduced since the start of the pandemic due the federal government’s enactment of a “Public Health Emergency” (PHE) (which remains in effect at the time of this report) and similar state mandates (which were lifted in September 2022 but for which a processing backlog apparently remains).

Some OAH dockets – such as occupational licensing, child protection, and procurement cases – have essentially returned to pre-pandemic levels. OAH has seen an increase in voluntary case referrals from the University of Alaska, and from municipal entities which are permitted to contract with OAH for adjudicator work. On the other hand, OAH’s Medicaid and public benefits caseloads continue to be significantly below their pre-pandemic levels.¹⁴

a. Raw active case numbers

OAH tracks its caseload in terms of new referrals, case closures, decision issuance, and active caseload. During 2022 OAH took in 971 new cases. In terms of case closures, either through resolution or through issuance of a final decision, OAH closed 1,215 cases in 2022.

¹⁴ Looking ahead, OAH anticipates that these case numbers will rebound as pandemic-related protections on these programs are removed and/or as application/recertification processing time improves or recovers. It is expected that these events will lead to a significant surge of new case work, and that OAH will need to add additional ALJ capacity in order to meet this increased need.

OAH has found that the most informative measure for considering the overall distribution of case types during the course of a year is that year’s overall active caseload – that is, the total number of cases that were open and active at any point during the year. This is a larger universe than the year’s case intake, and in particular tends to capture more complex cases which for various reasons might not resolve during a single calendar year.

OAH had a total of 1,494 open cases during 2022. Table 2 shows the number of active cases in different case categories, and that number as a percentage of all open cases that calendar year.

Table 2. OAH Distribution of Active Cases 2022

Case Type	Active cases	% of total active cases
Occupational and Professional Licensing ¹⁵	41	3%
Business Licensing and Regulation ¹⁶	14	1%
Child Support	42	3%
Contracts, Procurement, and Claims	9	<1%
DOH and DFCS-related Licensing/Certification	18	<1%
Department of Labor & Workforce Development	529	35%
Medicaid Benefits, Audits, & Rates	373	25%
Public Assistance Benefits	87	6%
PFD Eligibility, Charitable Contribution, Execution, and Fines	52	3%
Retirement and Benefits	10	<1%
Substantiation of Child Abuse and Neglect	262	18%
Municipalities	15	1%
Tax	10	<1%
DEC	11	<1%
Other ¹⁷	21	1%
Total	1,494	

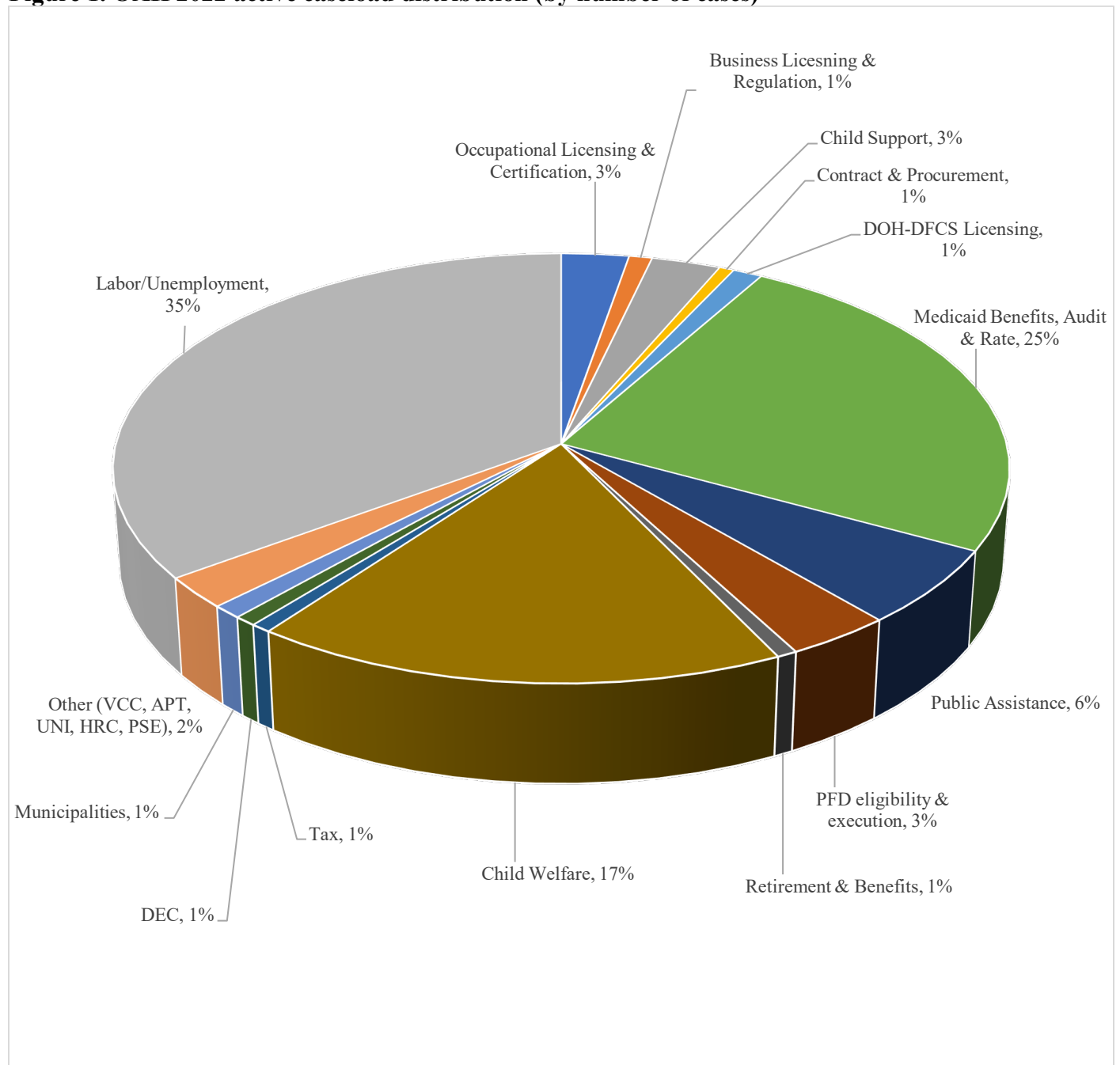
Figure 1, below, depicts the relative number of cases on which OAH actively worked in 2022, divided into general subject areas.

¹⁵ In addition to cases arising out of the Department of Commerce, Community, and Economic Development’s Division of Corporations, Business, and Professional Licensing, this category includes peace officer certification cases from the Alaska Police Standards Council, and teacher and administrator licensing matters from the Professional Teaching Practices Commission.

¹⁶ Includes cases related to the regulation of alcohol, marijuana, and tobacco businesses, as well as DCCED securities and insurance cases.

¹⁷ The catch-all “Other” category includes hearings on behalf of the University of Alaska, Human Rights Commission hearings, Violent Crimes Compensation Board cases, and some smaller DOT&PF cases.

Figure 1. OAH 2022 active caseload distribution (by number of cases)

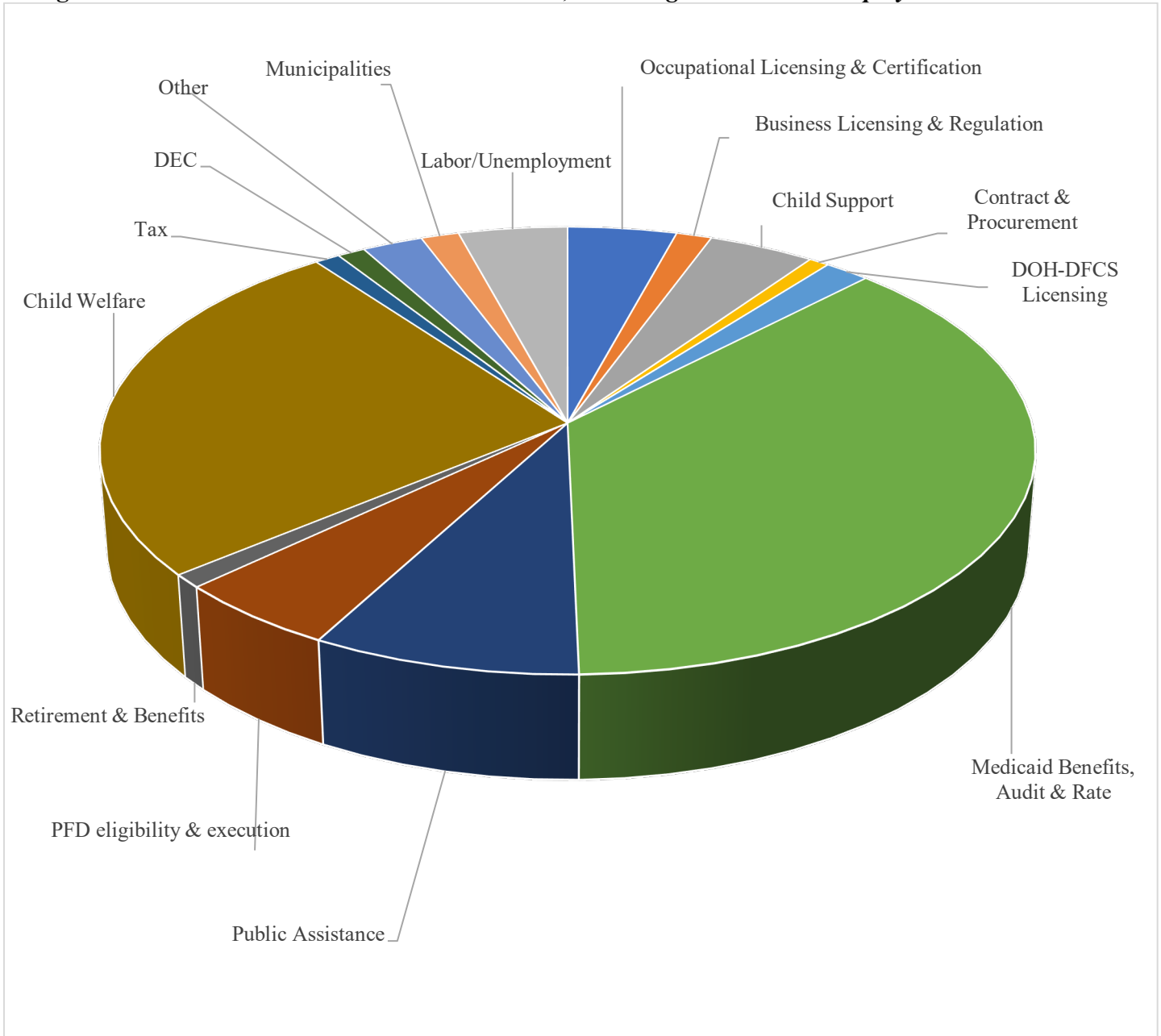


This chart is somewhat skewed by the presence of a large number of Department of Labor pandemic-related unemployment cases, which were a very significant part of OAH’s docket during FY22 but were nearly all resolved by early FY23. So, while OAH had many active Department of Labor cases during 2022 as a whole, it ended the year with nearly all of these cases having been resolved.¹⁸ A snapshot of OAH’s active caseload for FY23 – comprised of the second half of 2022 and the first half of 2023 – would show a vastly different caseload distribution.

¹⁸ The only exception is the ongoing Occupational Safety & Health Review Board docket, which represented 37 of OAH’s 529 active DL&WD cases in 2022. OAH had 24 active Occupational Safety cases open at the end of 2022; all other active DL&WD cases were resolved.

As a way of contextualizing OAH’s case distribution outside of this short-term docket, Figure 2 depicts the OAH’s 2022 caseload distribution *excluding* the short-term pandemic-related Unemployment Insurance cases.

Figure 2. OAH 2022 active caseload distribution, *excluding short-term unemployment docket*



b. Alternative dispute resolution

As in the court system, OAH seeks to promote the use of alternative dispute resolution (ADR) where appropriate. Of cases active during 2022, approximately 341 were diverted to ADR, including 304 cases diverted to the fast-track Medicaid mediation program, and 37 other matters diverted to formal ADR with an administrative law judge. In all, 35% of OAH’s active cases were provided some form of formal ADR in 2022.

In addition to cases resolved through formal ADR, many others were resolved through efficient case management techniques, including informal ADR used to reach agreement on consent orders or stipulations, as well as through voluntary dismissal due to agency concession or private party withdrawal.

c. Decisions and other orders

Of those cases that did not resolve through mediation or dismissal, a total of 461 full-dress decisions were issued, in addition to thousands of lesser orders. This “full decisions” number, however, understates the work done by OAH during the year.

Because this number only tracks full decisions that result in a case closure, it fails to capture those often large and complex OAH matters handled in which a significant decisional document is prepared, and the parties then resolve the case. Many of the most complex and time-consuming matters heard and managed by OAH do not ultimately result in a full decision measured by this metric.

d. Appeals

Very few OAH decisions are appealed to the courts, and the affirmance rate for such appeals is generally high.

Of the decisions issued by OAH in 2022, only 11 – or 2% – were appealed to the Superior Court in 2022. In addition, 4 new Alaska Supreme Court appeals were filed which arose out of OAH decisions.

Nine Superior Court appeals of OAH decisions were closed in 2022. Of these, 4 of the OAH decisions were affirmed on the merits, 3 appeals were dismissed before being decided on the merits, 1 matter was remanded, and 1 was reversed and remanded.

In the Alaska Supreme Court, 4 appeals of OAH matters were closed in 2022. Of these, the Court twice affirmed Superior Court affirmances of OAH decisions, and in one case partially affirmed/partially reversed a Superior Court’s partial reversal of an OAH decision. In the fourth case, the Court denied a petitioner’s request for review during an ongoing Superior Court appeal of an OAH decision.

4. *Time Devoted to Hearings and Related Work*

The previous section detailed the distribution of new and open cases across case categories. This method of viewing and understanding the OAH caseload is limited, however, in that not all cases are equal in terms of the ALJ time and effort required. A typical procurement, contracting, or professional licensing case easily requires about five times as much ALJ time as a typical Medicaid services case, which in turn requires about five times as much ALJ time as a typical Food Stamps case.

And even within a case category, an atypically complicated case can require five times as much ALJ time as a more routine matter. At the same time, a matter from a typically time-intensive case category might resolve quickly, and another matter from a normally straightforward case

category might become unexpectedly complex and time-consuming. All of these factors contribute to the need for a degree of caution in assessing ALJ workload based on traditional metrics alone.¹⁹

OAH’s ALJs collectively devoted 10,256 hours in 2022 to hearing or mediating cases and to related work, such as reviewing evidence, researching the law, ruling on motions, and writing decisions.

Table 3 compares the raw number of active cases in various case categories with the number of ALJ hours spent in these categories.

Table 3: OAH Case Distribution and ALJ Hours, 2022

Case Type	2022 Active OAH cases	% of active cases	2022 billed ALJ Hours	% of all billed ALJ hours
Occupational and Professional Licensing	41	3%	947	9.2%
Business Licensing and Regulation	14	1%	511	5%
Child Support	42	3%	358	3.5%
Contracts, Procurement, and Claims	9	<1%	360	3.5%
DOH and DFCS-related Licensing/Certification	18	1.2%	451	4.4
Department of Labor & Workforce Development	529	35%	2520	24.6%
Medicaid Benefits, Audits, & Rates	373	25%	908	8.8%
Public Assistance Benefits	87	6%	467	4.6%
PFD Eligibility, Charitable Contribution, Execution, and Fines	52	3%	395	3.8%
Retirement and Benefits	10	<1%	210	2.0%
Substantiation of Child Abuse and Neglect	262	18%	1211	11.8%
Municipalities	15	1%	575	5.6%
Tax	10	<1%	411	4.0%
DEC	11	<1%	465	4.5%
Other	21	1%	468.3	4.6%
	1,494		10,256	

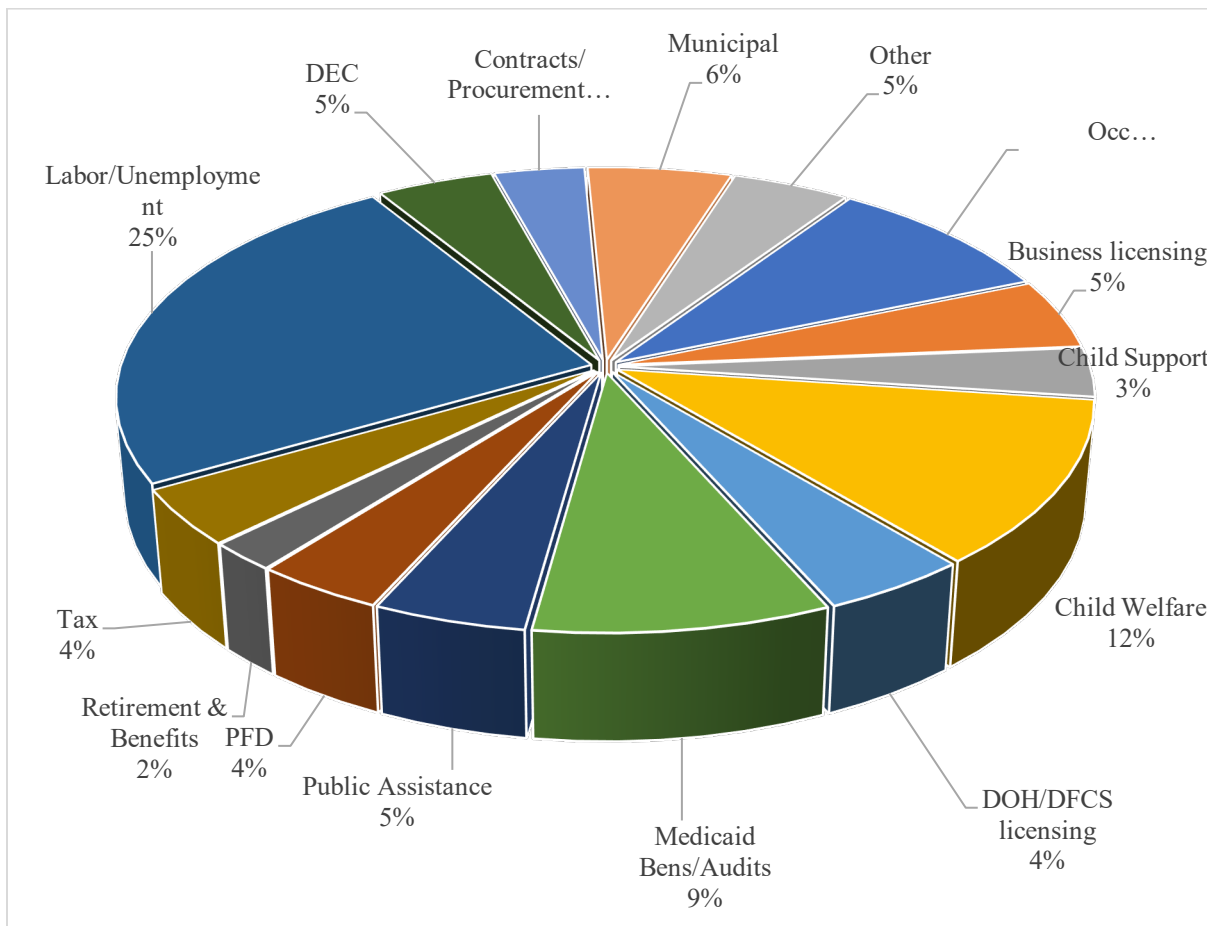
As this table demonstrates, some case categories take a proportionately larger percentage of ALJ hours than others. Thus, while Medicaid-related cases made up 25% of OAH’s active

¹⁹ Staff resources, as opposed to ALJ resources, are burdened approximately equally regardless of the case type.

cases by sheer numbers, they accounted for only 9% of case billings.²⁰ Child welfare cases, 18% of all OAH cases by numbers, accounted for just 12% of case billings. Professional licensing cases, by contrast, represent only 3% of active cases, but 9% of billings, as these cases tend to involve lengthy hearings and complex legal and factual issues. Similarly, OAH’s tax docket and contracts and procurement docket each comprise less than one percent of all active cases, but four percent of ALJ time.

While there are exceptions on both sides of this general rule, the overall picture is represented in Table 3. With some simplification, the distribution of OAH ALJs’ 2022 work time across case types is shown in Figure 3.

Figure 3. OAH ALJ Time 2022

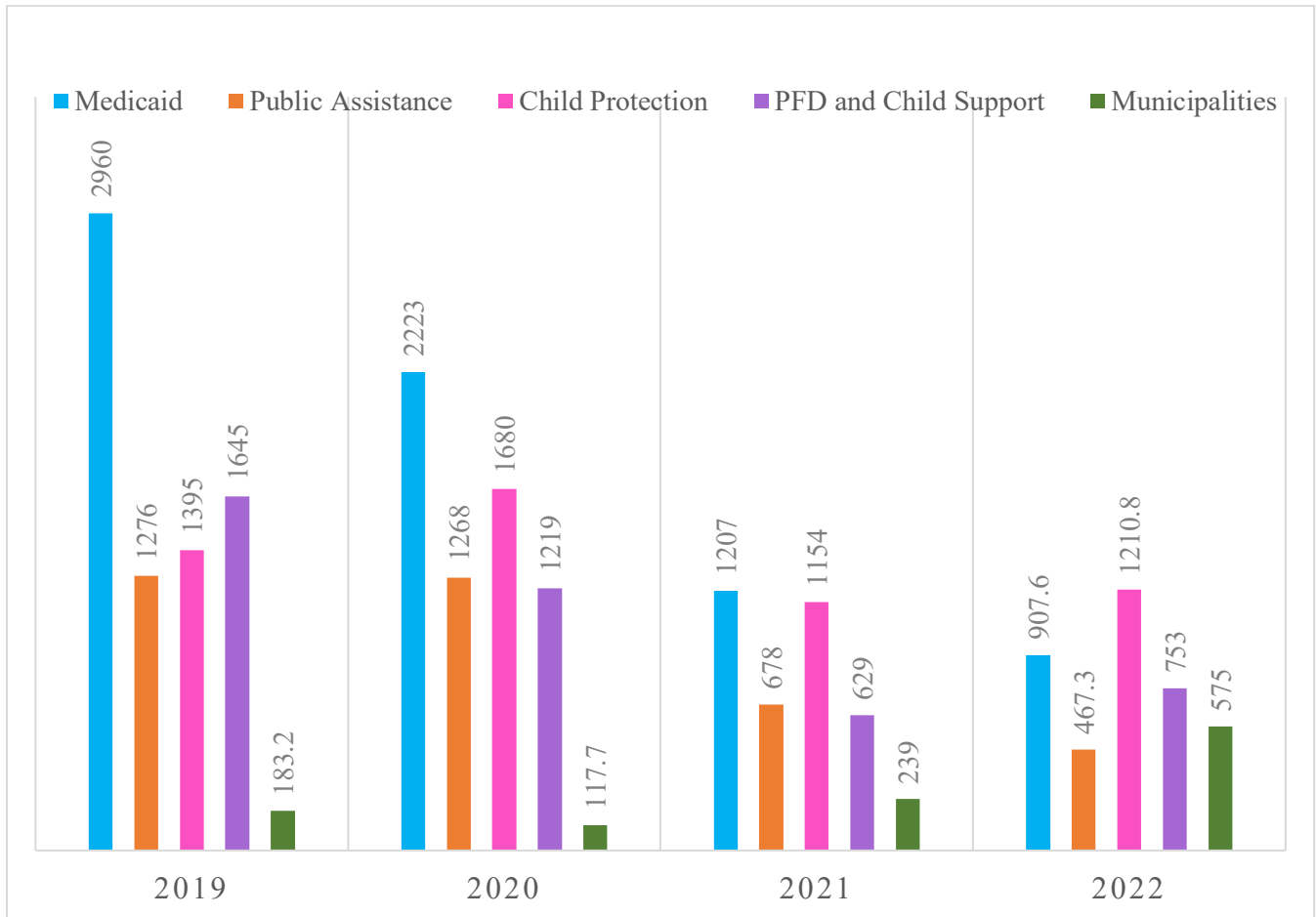


At the start of 2022, OAH’s 18th Annual Report noted a considerable drop in the number of Medicaid and Public Assistance cases referred to OAH compared with pre-pandemic referral patterns. Thus, while OAH averaged 675 new Medicaid referrals per year in 2018-2019, fewer than 400 cases were referred in 2021. In 2022, OAH received only 334 new Medicaid case

²⁰ This statistic understates the ALJ resources required when Medicaid benefits cases go to hearing. Because of the current downturn in case referrals and a large portion of Medicaid benefits cases resolving through the fast-track mediation program, only a small number of Medicaid cases actually went to hearing in 2022. Indeed, OAH issued fewer than 25 Medicaid benefits decisions in 2022, compared with nearly 80 in 2019. That year, Medicaid cases made up 42% of OAH’s active docket, and 28% of ALJ time.

referrals. Public benefits cases dropped even more dramatically – from nearly 400 cases in 2019, to fewer than 150 in 2021, and then to just 75 in 2022. Predictably, ALJ hours in these dockets have likewise dropped significantly, as reflected in Figure 4.

Figure 4. Variation in ALJ hours worked on various dockets, 2019-2022



5. *Decision deadlines and efficient case resolution*

Swift resolution is a key goal in administrative adjudication. Parties have an interest in obtaining a timely final agency decision resolving their dispute. Because this important principle is recognized in both state and federal law, OAH cases are subject to many deadlines.

The OAH-specific deadlines imposed by AS 44.64.060 apply to most, but not all, of OAH cases.²¹ The most important of these is the 120-day time limit to take a case from hearing request

²¹ The following categories of cases were exempted from the AS 44.64.060 deadlines: tax appeals, Human Rights Commission cases, occupational safety and health cases, Violent Crimes Compensation Board cases, and Professional Teaching Practices Commission cases. In addition, voluntary referrals from agencies not required to send cases to OAH may be exempted from the AS 44.64.060 deadlines if the referral agreement between the Chief ALJ and the referring agency so provides.

all the way to issuance of a proposed decision. This time frame is substantially shorter than the amount of time it takes a matter to be heard and resolved in the trial courts.

In addition to deadlines imposed by the OAH statute, other statutes and regulations establish deadlines that apply to certain types of cases. For instance, cease and desist order cases, summary license suspension actions, some insurance cases, securities matters, some procurement matters, child support appeals, and education-related facility grant cases are subject to shorter deadlines than those imposed by AS 44.64.060. Some case types have shorter or different deadlines for bringing the case to hearing, for issuing the decision, or for both.

Additionally, public benefits cases under the Department of Health are subject to short timelines for the agency to reach its final decision. These final decision deadlines are generally driven by federal program requirements, which set short timeframes from the filing of an appeal to issuance of a final agency decision. In Food Stamps cases, the agency's final decision is due 60 days after the appeal is filed; for Medicaid benefits and most other public assistance benefits cases, the final decision is due 90 days after the hearing request is filed. Within this time frame, the OAH ALJ must hear the case and issue a proposed decision, the parties must be allowed an opportunity to comment, and the final decisionmaker must then decide the case. In these cases, the 120-day state deadline for proposed decision still applies but is almost always subsumed in the shorter federal deadline unless the latter is extended by special circumstances.

Historically, the key deadline OAH monitored for purposes of this report has been the 120-day deadline from the date of the hearing request to the issuance of a *proposed decision*. Under AS 44.64.060(d), the 120-day deadline to proposed decision can be extended only by agreement of both parties, together with the consent of the Chief ALJ. This extension-on-consent tool is used in the more complex or unusual cases in which 120 days from filing of the hearing request does not allow adequate time for the case to be heard and a proposed decision to be issued.²²

In 2022, the 120-day deadline was met or not applicable in more than 98% of the total number of cases OAH closed. As in 2021, the 120-day deadline statistic is a less sensitive measure than usual for 2022. Because the 120-day deadline did not apply to the large docket of unemployment cases OAH took on for DOL&WD in 2021 and into 2022, it did not apply to a substantial number of cases OAH closed in 2022.

When DOL&WD decisions are also included in the calculation, the percentage of 2022 OAH decisions where the 120-day deadline either was met or did not apply was more than 95%. Even excluding the entire labor & unemployment docket, OAH still met its statutory deadline the lion's share of the time. In terms of all decisions issued outside the unemployment docket, the 120-day decision deadline was either met (or not applicable) in 87% of decisions issued in 2022.

At the same time, many cases reached final resolution — not just a proposed decision — within a much shorter timeframe than 120 days, often within fewer than 50 days for fast-track cases such as child support and public assistance benefits. Of the 724 OAH cases resolved prior to hearing in 2022, 40% resolved within 25 days of referral, 65% resolved with 50 days of referral,

²² In addition to the complexity of a case, other factors that have led to use of the extension-on-consent tool are the unavailability of the parties, witnesses or legal counsel, the need to await conclusion of a related case to make for a more efficient or consistent result, and late referral of the case by the referring agency.

and 83% resolved in fewer than 120 days from referral. For cases resolved prior to hearing, the median time to final resolution was 33 days.²³

For cases resolved through a full decision, the median time to resolution was 84 days, and the average was 132 days.²⁴ Even among these cases, however, 10 percent were fully decided in under 30 days, 26% in under 50 days, and 54% in under 90 days.

In OAH's high-volume Department of Health "Fair Hearings" cases, which have short final decision deadlines, OAH has also monitored these *final decision* deadlines. For such a case to meet its final decision deadline, the agency must refer it without delay, OAH must process it on an expedited basis, and the Commissioner's Designee in the Department of Health must act swiftly once the proposed decision is transmitted. In 2022, final decisions were issued after the applicable deadline in just 8 cases, an amount that represents fewer than 2 percent of all cases closed in which a final decision deadline applied.

Lastly, in the labor and unemployment docket, much like the "Fair Hearings" cases, the federal deadlines are based on the amount of time between the hearing request and the agency decision. While these cases came to OAH after those deadlines had passed, OAH was able to provide a quick turnaround in the vast majority of unemployment cases in 2022. Among more than 300 PUA and regular unemployment decisions issued in 2022, 14% were issued within thirty days of being opened at OAH, 32% were issued within 45 days of case opening, and 59% were issued within 90 days of being opened at OAH. OAH's continued efficiency in handling these cases facilitated the disposition of all of these cases early in FY23.

6. *Work for Additional Governmental Units*

In addition to its broad mandatory jurisdiction outlined at the outset of this report, OAH is permitted by statute to offer adjudication services to other executive branch agencies that are not required to route their cases to OAH, as well as to municipalities and other governmental agencies.

During 2022, OAH worked to eliminate DOL&WD's pandemic-related appeals and a related unemployment hearings backlog. In addition, OAH provided adjudication services in multiple complex matters for agencies such as the Department of Transportation and Public Facilities, the Alaska Police Standards Council, and the University of Alaska.

OAH also continued to provide services to other governmental agencies this year, providing adjudication services to several municipalities, boroughs, and school districts. Indeed, as noted above, 2022 was OAH's busiest year ever for this docket, with multiple municipal entities electing to contract repeatedly with OAH for their adjudicatory needs. The ability to take on case

²³ The average time was longer – 107 days. This is because many cases – particularly in the child maltreatment docket – are placed on hold at the parties' request while related criminal and/or Child in Need of Aid proceedings takes place. Oftentimes, delays in those criminal cases can mean that the OAH case does not get underway for months or even years after it was first initiated.

²⁴ In addition to cases whose time to decision was lengthened for the reasons discussed in the preceding footnote, this timeframe also involves cases whose time to final decision was extended significantly either by a time that the parties were engaged in ADR efforts, or, in the case of matters heard on behalf of boards or commissions, a period of months between when the OAH proposed decision was issued and when the next board or commission meeting was held. All three of these factors can extend the period of time that a case is technically open before OAH.

work for these entities helped smooth out some of the budget impacts caused by the temporary/pandemic-associated contraction in OAH's public benefits and Medicaid dockets, while providing municipalities with access to high-quality, cost-effective adjudication services.

B. Fast-Track Medicaid Mediation Program

Since 2016, OAH has offered an award-winning fast-track mediation program to parties in Medicaid Fair Hearings cases. Although OAH's Medicaid services docket remained contracted due to the pandemic and the associated federally-imposed Public Health Emergency, the success of the fast-track mediation program continued this year.

In 2022, 304 Medicaid Services cases were entered into the fast-track mediation program. Of these, over 95% went to mediation, with 86% of fast-track mediations then resolving through either a settlement agreement or a withdrawal by the participant.

The success of the fast-track mediation program continues to contribute significantly to speedy resolution of Medicaid Services appeals, while yielding considerable cost savings to the Medicaid program. The fast-track mediation program continues to be well received by recipients, care providers, and agency personnel. The program is valued by parties for its expediency and the ability of parties on both sides to come together in an informal and transparent setting.

The program's one-hour mediation sessions are conducted by a contract mediator under OAH supervision. While not all Medicaid Services appeals are amenable to resolution through a fast-track mediation and some ultimately must be resolved through the hearing process, the availability of the mediation program enables speedy resolution of many cases without ALJ involvement. The program has resulted in a notable reduction in OAH's billings to the Department of Health (DOH), as well as providing additional program savings for DOH because disputed services are resolved more quickly.

C. Peer Review

OAH's ALJs seek to promote excellency in the adjudication of disputes, including the preparation of proposed decisions. OAH employs a peer review process to assist newer ALJs as they become familiar with the range of the OAH caseload, and to assist all ALJs in improving their work product.

Peer review at OAH serves two purposes: it promotes consistency in decision-making and it provides informal training opportunities (for both the reviewed and the reviewing ALJ). OAH's peer review system consists of selectively assigning an ALJ to review the proposed decision and/or to observe the hearing conducted by another ALJ on a case-specific basis. The reviewing ALJ provides feedback to the reviewed ALJ and is available for consultations on questions of law or procedure.

Formal peer review assignments are made with the goal of ensuring that an ALJ venturing into a new subject area receives the benefit of informal training from a peer who has already worked in the subject area. This type of peer review has been, and continues to be, a key part of the training process for new ALJs.

In addition to peer review serving a valuable training function, OAH also employs peer review for ALJs handling particularly complex cases. Again, one of the benefits of a central panel of administrative law judges as opposed to isolated or siloed hearing officers is the ability to share knowledge, skills, and resources. Peer review occurs in complex cases to enhance the quality of the final product. The peer reviewer may point out analytical or legal weak spots, suggest structural or language changes, or assist the assigned ALJ in reasoning through a complex problem. However, the assigned ALJ retains complete decisional autonomy.

In 2022, a formal peer review assignment was made in roughly 16% of new cases. Not all peer review assignments lead to time spent or billed conducting peer reviews, since many cases resolve through mediation or other pre-hearing means. On the other hand, an ALJ may seek out peer review in any matter, whether or not a formal peer review assignment has been made.

In addition to formal peer review assignments made as part of the training process or for complex decisions, group peer review of decisions or case management strategy is conducted when appropriate, such as when an ALJ faces an issue of first impression. Group peer review promotes consistency among ALJs on both legal issues as well as best practices in case management.

D. Publication of final decisions

OAH is required to “make final agency decisions reached after administrative hearings available online through an electronic data base.” AS 44.64.090(a). OAH’s efforts to keep its electronic database current were hampered in 2022 by a significant (40%) staff vacancy rate for a considerable part of the year. Nonetheless, OAH added 110 new OAH decisions to its online publications database in 2022. The majority of these decisions were added in the final quarter of the year after these staffing challenges were remedied. OAH is optimistic that it will make meaningful progress on decision publications in the coming year.

E. Regulations

OAH’s Chief ALJ was given authority to “adopt regulations ... to carry out the duties of the office” as well as to “review and comment on regulations proposed by state agencies to govern procedures in administrative hearings.” AS 44.64.020(a)(8) & (11). In particular, the Chief ALJ was required to adopt a hearing officer code of conduct, which applies to hearing officers of all agencies, not just to OAH ALJs.

Regulations on procedures for OAH cases and for the Code of Hearing Officer Conduct have been adopted and took effect on July 2, 2006. No amendments to the 2006 regulations were proposed in 2022. It is anticipated that when OAH’s proposed statutory changes are adopted by the legislature, a comprehensive regulations review project will commence.

OAH is also tasked by statute with tracking notices of other state agencies’ proposed regulations, looking for those that have the potential “to govern procedures in administrative hearings.” In 2022, OAH did not identify any agency regulations on which OAH comment was required.

F. Monitoring and Surveys

OAH is required to “survey administrative hearing participants and use other methods to monitor the quality of administrative hearings held by the office and other state agencies[.]”

AS 44.64.020(a)(7). The purpose of the surveys and other monitoring is to enable the Chief ALJ to include in the annual report recommendations for statutory changes.

OAH sends a survey to all hearing participants when a final decision in a case is issued, and surveys can be completed online or returned in the mail. As in prior years, survey responses during 2022 were broadly positive. Even when a litigant was not satisfied with the outcome of the case, the vast majority of respondents were satisfied with the adjudication process overall.

G. Training

OAH's training mandate extends beyond providing training to OAH Administrative Law Judges. It requires that OAH:

make available and facilitate training and continuing education programs and services in administrative procedure, administrative adjudication, substantive law, alternate dispute resolution, and technical matters for administrative law judges and other administrative adjudicators[.]²⁵

To satisfy this mandate, OAH's training plan consists of the following components:

- Informal training for OAH ALJs through peer review assignments, conferences among the ALJs on a periodic basis, and circulation of case decisions and other materials of interest;
- Formal training for OAH ALJs by attendance at continuing education courses offered by professional associations and the National Judicial College;
- Formal training for non-OAH administrative adjudicators through participation by OAH representatives in periodic, agency-specific conferences; and
- Formal training for administrative adjudicators in the form of programs made available by OAH.

This year OAH's newest ALJ completed the National Judicial College's intensive introductory training for Administrative Law Judges; this program is the only comprehensive training course for administrative law judges in the country.

During 2022, OAH also continued its successful in-house training program for ALJs. While this program is not a replacement for formal judicial training through the National Judicial College, it is a useful mechanism for continuing education and for training focused with particularity on issues germane to OAH. Among other periodic in-house meetings to discuss ongoing case work and legal issues, OAH coordinated with the University of Alaska to provide all OAH ALJs an in-depth training specific to conducting Title IX hearings, and coordinated with the Alaska Bar Association to obtain continuing education credit for this training.

In addition to in-house trainings, a number of ALJs used their own funds to take part in continuing education programs, or took advantage of free courses presented by various groups, including: attending webinars offered by the National Association of Administrative Law Judges

²⁵ AS 44.64.020(a)(6).

in conjunction with the National Judicial College; attending webinars offered by the National Center for State Courts; participating in the Central Panel Director’s Conference, a national conference of central panels like OAH; and taking part in webinars offered by the American and Alaskan Bar Associations.

OAH also worked to upgrade and update the specialized in-house reference materials and resources available to both new and veteran ALJs. Efforts in this regard have included updating content, centralizing all reference materials to a shared network, and upgrading some in-house “bench book” materials to a shared online “wiki” format.

In addition to these in-house efforts, the OAH management team also provided training about the administrative adjudication process to several Department heads and other final decisionmakers.

H. Administration of the Code of Hearing Officer Conduct

By statute, complaints alleging violation of the Code of Hearing Officer Conduct must be considered by OAH’s Chief ALJ, who determines whether they meet the standard for referral to the Attorney General for investigation.²⁶ Under the code, mitigation of an alleged violation may exist if the accused hearing officer relied upon a written opinion from the Chief ALJ or the Attorney General.²⁷ The Chief ALJ, therefore, must field questions from hearing officers about code compliance requirements and, in appropriate circumstances, issue written opinions.

The Chief ALJ received one complaint of a violation of the Code of Hearing Officer Conduct that met the criteria for consideration under 2 AAC 64.070 and forwarded that matter to the Attorney General for resolution.

I. Workers’ Compensation Appeals Commission Recruitment

Under AS 23.30.007, the Chief ALJ has the duty to recruit for vacancies on the Workers’ Compensation Appeals Commission and to appoint persons to serve as the *pro tempore* chair of that commission if the chair is absent or cannot hear an appeal due to a conflict. The Chief ALJ reviews the qualifications of the applicants for commission positions and must forward to the Governor at least three names for consideration when the attorney-chair position is vacant, and at least two names for each commissioner vacancy.

The Chief ALJ issued one *pro tempore* chair appointment in 2022, and forwarded to the Governor three names for consideration to fill a vacancy on the Workers’ Compensation Appeals Commission.

III. Recommendations of the Chief Administrative Law Judge

In addition to the description of activities, the Legislature has directed OAH to include in its annual report “recommendations for statutory changes that may be needed in relation to the administrative hearings held by the office or other state agencies.” AS 44.64.020(a)(7).

²⁶ AS 44.64.050(c). Complaints alleging violations by the Chief ALJ are considered by the Attorney General. AS 44.64.050(e).

²⁷ 2 AAC 64.060(c).

A. Recommendation: Adopt legislative revisions to OAH's statute

In the fall of 2016, OAH embarked on a comprehensive review of the statutes and regulations affecting administrative hearings. Based on this review, OAH recommended certain specific statutory changes, with sample language offered in an Appendix to the 2017 annual report. In 2019, Senator Micciche introduced SB 88, encompassing many of those proposed changes. The bill was scheduled to be heard in the Finance Committee in March 2020 but was unable to have a hearing before the pandemic-related end of the legislative session. This bill was not introduced during the 2021 legislative session. The bill has now been reintroduced as HB 7 by Representative Hannan.

OAH continues to strongly believe that legislative adoption of the changes identified in prior annual reports and as embodied in the proposed legislation would improve both efficiency and due process. In brief, the major improvements recommended in prior annual reports, which are also embodied in HB 7, address the following:

- OAH's statute has a deadline for proposed decisions, and a deadline for agency heads to then make final decisions. The final decision deadline applicable to agency heads, though reasonable in concept, is counted from the wrong event – namely, it is counted from the date the proposed decision is issued, instead of the date that the matter is transmitted to the agency head. This has caused some agency heads to have less than a reasonable time to consider proposals for action and deliberate on their final action. HB 7 addresses this in Section 14 by starting the decision clock for final decisionmakers from the point at which the proposed decision is actually transmitted to them.
- The lack of a provision allowing parties to respond to one another's proposals for action, in appropriate cases, has led to due process concerns in some instances. HB 7 addresses this concern in Section 14.
- The lack of opportunity for the ALJ to revise a proposed decision based on errors pointed out in proposals for action has led to delay and inefficiency in a number of cases. HB 7 addresses this in Section 14 with a time-saving mechanism for ALJs to correct proposed decisions before transmitting them to the final decisionmaker.
- The current statute provides a one-size-fits-all period of 45 days for remanded cases. This timeline is simultaneously too relaxed in instances of simple clarifications or redrafts, and too tight for more complex remands. In Section 14, HB 7 provides a mechanism whereby the final decisionmaker can set deadlines appropriate to the circumstances of a case.
- Although the Chief ALJ can employ administrative staff, the statute inadvertently was written in such a way that an Associate Attorney I (law clerk) cannot be hired by OAH even though such a hire might result in cost-savings to OAH. HB 7 addresses this in Sections 2 and 4 by allowing the hiring of professional staff.

- OAH currently has subpoena power of some kind in the great majority of its cases, drawn from a patchwork of dozens of sources scattered across many statutory titles. At the same time, there is no subpoena power in a few important case categories. It is time for OAH subpoena authority to be consolidated into a single, uniform provision of AS 44.64. The patchwork of subpoena authorities causes uncertainty, inefficiency, and extra cost. Although subpoenas are issued in only a very small percentage of cases, situations in which the authority to issue them is absent or questionable disrupt orderly and effective adjudication and can lead to waste and injustice. HB 7 addresses this issue by providing more uniform subpoena authority. Over the years, OAH has had both litigants and agencies express concern from time to time that the inability to subpoena a critical witness has dictated the outcome of a case.
- At the time OAH's statute was enacted, there was debate over how much experience an ALJ should have before being hired by OAH. Given the complexity of some of the cases now before OAH, having at least four years of practice overall as the minimum standard for hiring now makes sense. (In actuality, OAH ALJs average closer to twenty years of law practice experience). However, experience in other jurisdictions should be countable. The inability to count experience in other jurisdictions has caused severe recruiting difficulties in the tax docket. HB 7 addresses this in Section 7 by allowing OAH to count legal practice in other jurisdictions towards the tax-qualified ALJ position's practice requirements.
- Like the court system, OAH needs to have a means of reopening decisions that were entered in error, such as when a party failed to appear but the failure later turns out to be because the party was incapacitated, or because the agency sent the notice to the wrong person. OAH currently has no mechanism that allows a case to be reopened, even in the presence of frank and obvious error. HB 7 addresses this in section 16 by allowing OAH to reopen cases for the same reasons allowed in the court system.

HB 7 is consistent with the changes to OAH's statute that the Chief Administrative Law Judge has been recommending in OAH's annual reports since 2018 – changes which fix the issues in AS 44.64 that have been identified by experience.

B. Recommendation: Consolidate the Workers Compensation Appeals Commission's Function Under OAH

The Chief ALJ, in conjunction with Boards and Commissions, is involved in the recruitment and vetting of applicants for the labor and management members of the Commission and for the Chair position. Final selection of the candidates is made by the Governor. During the six-year period from calendar years 2016 through 2021, the Commission has averaged between 15 and 26 new cases a year. In terms of total caseload (new cases plus cases carried over from a prior year and cases that have been remanded), the Commission has had between 33 and 49 cases on its docket each year. Currently, the Commission has two full-time employees: the Chair and a staff member.

Since 2014, there have been on-and-off discussions between the Department of Labor and the Department of Administration and, more particularly, between OAH and past Chairs of the Commission concerning consolidating the Commission under OAH so that the Chair would

have a full-time docket consisting of OAH cases and cases for the Commission. Certain cost savings would result from such a consolidation given the very small docket of the Commission.

C. Recommendation: Move jurisdiction for Special Education hearings to OAH

One notable area of state administrative adjudication currently not assigned to OAH is special education hearings. These matters arise when parents or school districts request a hearing to determine whether a student requires special education services and/or whether the services being provided are appropriate. In a majority of states with central panels like OAH, those central panels handle special education adjudications and mediations that originate in school districts. OAH's statute (AS 44.64.055) also permits OAH to handle special education cases.

Historically, Alaska's Department of Education and Early Development has utilized a small group of attorneys to serve as the pool of hearing officers for all Alaska special education cases. This small group, trained annually by DEED, has contracted over time and now consists of just four attorneys – two of whom are OAH administrative law judges. Further, all four hearing officers are at retirement age and two of the four have advised DEED's trainer that they do not plan on providing hearing officer services to DEED once they retire in another year or two.

OAH's ALJs are experienced adjudicators and litigators who historically have charged substantially less per hour than private hearing officers, a cost savings which is passed onto the municipalities and school districts. These circumstances warrant a hard look at whether special education hearing officer responsibilities should be assigned to OAH by statute, rather than to DEED.

Additionally, many special education disputes can be mediated to a successful resolution without costly litigation. Currently, DEED administers a mediation contract with an out-of-state mediator for this purpose. However, all three of OAH's ALJs who have completed DEED's introductory special education course are experienced mediators who would be able to handle special education mediations.

In order to effect this change, the following statutory provisions would need to be revised: AS 44.64.030(a), which is OAH's statute addressing the mandatory jurisdiction of OAH; AS 14.30.193, which addresses the process for selecting and appointing hearing officers when a due process hearing has been requested in a special education matter; and AS 14.30.194, which addresses appointing mediators for special education cases. Overall, transferring these cases to OAH would result in a pool of trained judges and mediators within a centralized governmental agency and would allow school districts to benefit from OAH's efficiencies and reduced costs for these services as compared to private hearing officers and mediators.

D. Recommendation: Modify OAH funding model to provide stability during temporary fluctuations in caseload

In 2014, OAH received approximately \$450,000 in General Fund appropriations. Beginning in 2015, that appropriation began to be reduced. Today, OAH is funded almost exclusively through "interagency funding." With the exception of a small (approximately \$87,500 or 3% of OAH's budget) General Fund appropriation, all remaining funding is through direct billing to agencies and municipalities for whom OAH provides adjudication services. By contrast,

other legal services agencies in the Executive Branch (the Office of Public Advocacy and the Public Defender’s Office) and the Judicial branch are funded by General Fund appropriations.

As discussed above and reflected in Figure 4, variation in the number of matters referred, or the complexity of those matters, can lead to significant variability of workload distribution and dedication of ALJ time from year to year. OAH’s funding model is particularly challenging during the kind of drastic caseload shift that has occurred during the pandemic.

In 2022, OAH experienced a significant disconnect between its inelastic costs (personnel) and its elastic funding – the monies received from interagency receipts. Returning to the prior funding model in place in 2014, which provided OAH with a cushion in years where the number of cases referred to OAH was lower than normal, would ensure stable funding in these leaner years. When case referrals are plentiful and cover personnel costs, OAH would – as it did before – use the General Fund appropriation to lower the hourly rate OAH charges to agencies using its hearing and mediation services.

Additionally, a cushion in its General Fund appropriation would enable OAH to keep pace with technological advances and needs. OAH has a dire need to upgrade its hearing room with appropriate technology to facilitate remote or “hybrid” hearings - *i.e.*, hearings where some parties or participants participate remotely. Additional General Fund would enable OAH to timely meet this kind of significant institutional need.

IV. Conclusion

In 2022, OAH’s activities continued to focus on its core function, adjudication of executive branch cases. The unique circumstances of the global pandemic have continued to require adjustments to the conduct of hearings – for example, offering a wide variety of proceedings via videoconference to replace in-person hearings and mediations. It has also included a shift in OAH caseload as the adjudicative needs of Alaskans and state agencies have shifted during the pandemic.

In the coming year, OAH will continue to search for opportunities to improve the delivery of fair, efficient, and cost-effective hearings and alternative dispute resolution processes for the benefit of all Alaskans.

Submitted effective the 31st day of January 2023.

Signed

Kathleen A. Frederick
Chief Administrative Law Judge

Appendix A: Post-Hearing Survey Results: January 2022-December 2022

Demographics of Hearing Participants Responding²⁸

Question	Number Responding				
<i>Define your participation</i>	<i>Attorney</i>	<i>Party</i>	<i>Agency Representative</i>	<i>Other</i>	<i>Skipped</i>
	7	2	19	1	0
<i>Did you attend in person or by telephone?</i>	<i>Attended in person</i>		<i>Attended by telephone</i>		<i>Skipped</i>
	0		28		1
<i>Where do you live?</i>	<i>Rural Alaska</i>	<i>City in Alaska</i>	<i>Outside Alaska</i>	<i>Skipped</i>	
	9	19	1		
<i>What was the final ruling of your hearing?</i>	<i>In your favor</i>	<i>Not in your favor</i>	<i>Other</i>	<i>Skipped</i>	
	21	5	3		
<i>Including this one, how many hearings at the Office of Administrative Hearings have you participated in?</i>	<i>One</i>	<i>2 to 10</i>	<i>More than 10</i>	<i>Skipped</i>	
	7	6	16		

Hearing Evaluation for Administrative Law Judge (ALJ)	Excellent	Adequate	Poor
ALJ's preparation for the case	21	7	1
ALJ's courtesy toward both parties	22	5	2
ALJ's impartiality toward both parties	22	3	4
ALJ's efficiency	21	5	3
ALJ explained the hearing process	21	8	0

Written Decision Evaluation	Excellent	Adequate	Poor
ALJ's promptness issuing order	22	5	2
Decision clearly explained the issues and ruling	23	5	1

Overall Evaluation	Agree	Disagree	No Comment
Office of Administrative Hearings Clerks were courteous and helpful	26	0	3
Overall, I was satisfied with the hearing process and felt it was a positive experience	25	2	2

²⁸ Note: not all respondents answered every question.