

Twenty-First Annual Report from the Office of
Administrative Hearings to the Honorable Mike
Dunleavy, Governor of the State of Alaska, and the
34th Alaska State Legislature



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I. Introduction

In compliance with its statutory obligation under AS 44.64.020(6), the Office of Administrative Hearings (OAH) respectfully submits to the Governor of the State of Alaska and the 34th Alaska State Legislature this Twenty-First Annual Report.

II. Statutory History of The Office of Administrative Hearings

OAH was created by statute twenty-one years ago as an independent office of administrative hearings whose statutory obligations can best be summarized as promises to all Alaskans. Those promises commit the Office to ensuring due process for Alaskans and others who are challenging agency decisions, to providing open and clearly explained agency decisions, and to the delivery of high-quality adjudication services in a timely, efficient, and cost-effective manner.¹ OAH is the state executive branch's central hearing panel. Adopted by approximately 35 states over the course of fifty years, a central-panel model replaces agency hearing officers with independent administrative law judges. As required by statute, those judges must be admitted to practice law in the State of Alaska for a period of at least two years.

OAH operates under the supervision of its newly appointed Chief Administrative Law Judge Joan M. Wilson. AS 44.64.020 sets out 13 statutory responsibilities for the Chief Administrative Law Judge that all must be performed to accomplish five overarching goals.²

III. Activities of the Office of Administrative Hearings

OAH's core function is providing adjudication and mediation services in administrative disputes involving government decision makers. Ancillary duties include enhancing the quality of administrative adjudication internally and statewide through training and education; peer review; monitoring the hearing process; surveying participants; publishing OAH decisions; reviewing and developing regulations pertaining to administrative hearings; administering the Code of Hearing Officer Conduct; and recruiting members of the Workers Compensation Appeals Commission.³ This report first discusses the fulfillment of OAH's core function.

A. Administrative Adjudication Services

1. Overview

OAH provides adjudication services for a wide range of administrative disputes between persons, including business entities, and the executive branch or certain other governmental entities. The range of case types heard by OAH varies widely, as do the type of adjudication services performed in a particular case or case type. Some cases heard by OAH's administrative law judges are narrow, single-issue disputes that can be heard in less than an hour; others involve complicated legal and factual disputes, requiring multi-week trial-like hearings where witnesses testify, and evidence is entered into the record.

¹ AS 44.64.030(b).

² See Appendix A (Implementing statute).

³ See AS 44.64.020(a)(4)-(8); AS 44.64.050; AS 44.64.090; AS 23.30.007(d).

The duration of OAH proceedings from hearing request to resolution varies according to complexity. Using formal or informal alternative dispute resolution (ADR), or simply through good case management, OAH can resolve many cases within a matter of days to weeks. This is in keeping with OAH’s statutory obligation to provide its services in a “timely, efficient. And cost-effective manner.”⁴ Other cases may remain active for many months, as the parties develop their positions, engage in motion practice, and prepare for detailed presentation of technical evidence and argument on complex legal issues.

By law, the OAH administrative law judges (ALJs) are the final decisionmakers in only a few case categories. More commonly, the final decisionmaker is a board or commission or a principal agency head, such as a commissioner, with OAH providing a recommended decision. Whether the final decisionmaker is the ALJ, a board or commission, or an agency head, a final decision in an OAH appeal may be appealed by an aggrieved party to the Superior Court for the State of Alaska. This is because that final adopted decision is a final agency action capable of appeal to the judicial branch of the State of Alaska.⁵

OAH has a core area of mandatory jurisdiction, in which the law requires all valid administrative adjudicative requests to be handled at OAH. The following illustrates the reach of OAH’s adjudication services under its *mandatory* jurisdiction, which extends to most executive branch departments.

⁴ AS 44.64.030(b)(1).

⁵ See AS 44.62.560.

Table 1: Office of Administrative Hearings: Mandatory Jurisdiction

Offices of the Governor and Lt. Governor <ul style="list-style-type: none"> •Human Rights Commission (Gov.) •Notaries (Lt. Gov.) 	Department of Administration <ul style="list-style-type: none"> •Retirement & Benefits, •Contract & 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 •Land Sales Practices
Department of Education and Early Development <ul style="list-style-type: none"> •Teacher Certification •Discrimination in public education •Education-related facilities grants •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 Protection/ Child Maltreatment Findings
Department of Health <ul style="list-style-type: none"> •Medicaid Benefits, Audits, & Rates •Public Assistance Benefits •PFD Execution 	Department of Labor & 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 Revenue <ul style="list-style-type: none"> •Tax (original jurisdiction); •PFD Eligibility •Charitable Contributions & Fine/Forfeiture •Child Support •Charitable Gaming •Unclaimed Property 	Department of Transportation & Public Facilities <ul style="list-style-type: none"> •Construction Procurement (some)
University of Alaska <ul style="list-style-type: none"> •Suspension and Removal of Regents •PFD Execution 	Other <ul style="list-style-type: none"> •Executive Branch Ethics Act hearings 	

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 for proposed decision or final decision determination.⁶ In 2024, OAH handled voluntary referral matters from a range of agencies including DOT&PF, the Department of Public Safety, and the University of Alaska. Additionally, as discussed further below, municipalities, school districts, and other governmental entities may also voluntarily refer cases to OAH. This is a significant service to them because many have only limited ability, time, or personnel to hear and resolve adjudicative disputes on a timely basis on their own.

2. *Dockets*

With more than 140 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 2024.

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 calendar year 2024, OAH heard 67 PFD- related cases, the vast majority of which were PFD application denials. Common litigated issues included applications filed after the March 31 deadline, absences from the state for more time than statutorily allowed, and ineligibility based on incarceration or some other factor during the qualifying year. Of the 53 PFD eligibility appeals heard in 2024, two resulted in a decision reversing the finding of ineligibility.

Child maltreatment. OAH hears administrative appeals of parents and other caregivers who have been the subject of a “child maltreatment” finding by the Office of Children’s Services (OCS). A maltreatment finding is a confidential administrative finding that can affect certain kinds of background checks and eligibility for certain types of employment. An individual who is the subject of a substantiated finding may request an evidentiary hearing before an OAH

administrative law judge. Some such hearings center on whether a particular event occurred, while others center more on whether the events that occurred warrant a civil finding of “maltreatment.” In either case, OCS has the burden of proving by a preponderance of the evidence that the substantiated finding should be maintained. The final decision maker in these cases is the Commissioner of the Department of Family & Community Services (DFCS) or her delegate.

During 2024, OAH had an active docket of several hundred child maltreatment appeals, including 111 new appeals filed during the year. 108 matters closed during the year, including appeals filed in 2023.

While most cases resolve by agreement or dismissal of the request to appeal, eleven appeals of OCS child maltreatment findings were tried to decision during 2024. Of those where final decisions had been issued by the date of this report six cases resulted in final agency decisions upholding all findings, three had all findings reversed, and the remaining two had some upheld and others reversed. No matter this mix, the hard and

⁶ AS 44.64.030(b).

difficult work of caseworkers remains appreciated. Protecting children is one of the most important obligations of this state and the workforce of DFCS are committed to performing their obligations in good faith and with exactitude, knowing how harsh an unsubstantiated finding against a non-liable caregiver might be.

Planning, the number of referrals to OAH may decrease in 2025 as the DFCS is considering implementing an informal appeal review process within the Department before appeals disputes are submitted to OAH. As part of her statutory obligation to “review and comment on regulations proposed by state agencies to govern procedures in administrative hearings,”⁷ Chief Administrative Law Judge Wilson will review and comment on any proposed regulations to ensure due process for Alaskans. Absent a harm to due process, this change properly implemented may be a significant cost-saving measure for DFCS.

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 specific Medicaid programs, OAH ALJs hear Alaskans’ administrative appeals of agency decisions in Adult Temporary Assistance, Adult Public 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. OAH’s hearing work in these areas requires listening carefully to both sides, determining underlying issues, and issuing understandable decisions without legalese that explains to the layperson both the factual and legal bases for the decision.

In addition to facilitating the resolution of 316 Medicaid appeals through an award-winning Fast-Track Mediation Program, OAH conducted hearings and issued decisions in 43 public benefits cases and 29 Medicaid cases in 2024.

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 35 child support cases in 2024. Of these, 9 were able to be resolved through consent agreements between the parties, 16 were resolved through contested decisions, and the remaining 10 were dismissed by the party or agency.

Municipal appeals. OAH’s statute allows it to accept hearing work from municipal and local governmental entities, with those entities then reimbursing OAH for the cost of those services. OAH has heard more than 57 such cases since it began performing this work in 2016. While the majority of these have been planning and zoning appeals, OAH has also heard board of ethics matters, procurement disputes, local tax matters, and

⁷ AS 44.64.030(a)(8).

municipal employment matters. In 2024, OAH handled 8 active cases for 4 different municipal entities. The municipalities pay the full cost of the work OAH does for them. For many local governments, this represents an important cost savings in comparison to other options available to them, and it produces better quality, more consistent handling of their appeal dockets. The state benefits because the added case volume creates economies of scale and allows OAH to manage its docket and keeps its judges fully engaged based on the largely unpredictable nature of agency referrals. OAH must exist for the 51 statutory mandated referrals under AS 04.64.030 whether a matter is referred to OAH or not. Supplementing the docket with discretionary and local government referrals maintains a high functioning, predictable, and recruitable workforce.

Contracts and Procurement. On behalf of the Commissioner of Administration and the Commissioner of Transportation and Public Facilities, OAH handles appeals by disappointed bidders in state procurements and by private parties who have claims relating to their existing contracts with the state. In most years, there are several such appeals, some of them very large. 2024 had fewer such disputes than usual. OAH handled two appeals and issued one decision, resolving (by delegation from the Commissioner of Administration) a dispute over selection of the state's Medicaid fiscal agent. While a small volume last year, these are some of the most important dockets to ensuring Alaska remains open for business but in a manner that complies with all guiding law.

Environmental Conservation. By legislative mandate, OAH hears appeals from decisions made by the divisions of the Department of Environmental Conservation (DEC). These cases often involve facility permits of great public significance and are handled in close cooperation with the DEC Commissioner. Specifically, by request and under AS 44.64.060(c), the Commissioner jointly hears the evidence and argument, after which an OAH ALJ prepares a draft decision according to the direction of the Commissioner. Six of these matters were before OAH in 2024, with final decisions issued in four of them. Pertinent to the child maltreatment caseload discussion above, DEC also avails potential appellants of an informal review process before disputes are forwarded to OAH. The success of that program is one DFCS might emulate.

Professional licensing and certification and marijuana and alcoholic beverage licensees. OAH conducts administrative hearings for all State professional licensing boards and several professional certification commissions. It also conducts administrative hearings regarding the licensing of alcoholic beverage and marijuana establishments. These cases include appeals of licensure denials or renewals, requests for license reinstatement, disciplinary matters ranging from reprimands to license revocation, and appeals of summary license suspensions.

OAH's active cases in 2024 included 33 licensing cases on behalf of 11 different entities, including the State Medical Board, the Board of Nursing, the Alaska Police Standards Council, the Professional Teaching Practices Commission, the Board of Public Accountancy, the Board of Social Work Examiners, the Alaska Board of Pharmacy, the Board of Massage Therapists, the Big Game Commercial Services Board, the Board of Marine Pilots, and the Alaska

Real Estate Commission. It addressed 10 alcoholic beverage licensing matters and 16 marijuana licensing matters.

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 proposed decisions and resolutions in 2024 crossed a range of professions, from realtors to accountants, to medical professionals and marine pilots, and addressed issues including misrepresentation and fraud, standard-of-care violations, firearm eligibility, and good-moral-character requirements.

In other 2024 professional licensing and business licensing matters, OAH ALJs 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. Decisions were issued in four cases in 2024. We can expect changes to this docket in 2025 with the change in Presidential administrations. These will be subject of next year's report.

Occupational Safety and Health. OAH also hears administrative appeals of occupational health and safety matters. The Occupational Safety and Health Board hears those matters alongside an ALJ with specialized training and certification in these matters. As of this writing, there were 44 active cases in calendar 2024, 20 of which are closed by decision or mediation.

Tax. OAH is the state's tax court of general jurisdiction, and hears all state tax appeals, including matters relating to corporation income tax, oil and gas production tax, and fisheries taxes. OAH also provides adjudicatory assistance to the State Assessment Review Board (SARB). Many of the tax cases carry high stakes with millions of dollars in tax assessments in dispute and the amount of pre-hearing management and motion practice can be significant. In 2024, OAH handled 20 tax-related cases, issuing decisions in six of them. Because of the high-dollar value in dispute, many decisions are appealed to the superior court.

3. *Caseload by the numbers*

a. Raw active case numbers

OAH tracks its caseload in terms of new referrals, case closures, decision issuance, and active caseload. During 2024 OAH took in 860 new cases. In terms of case closures, either through resolution or through issuance of a final decision, OAH closed 836 cases in 2024.

OAH has found that the most informative measure for considering the overall distribution of case types during 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 tends to capture more complex cases which, for various reasons, might not resolve during a single calendar year. OAH had a total of 1,157 open cases during 2024. 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 2024

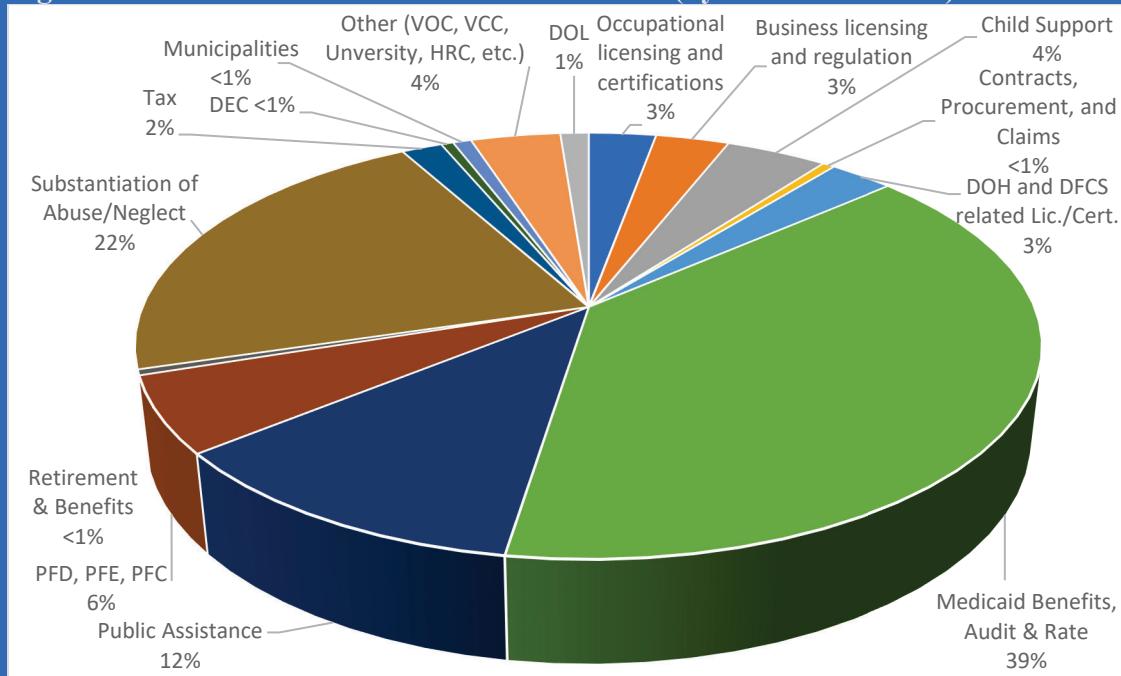
Case Type	Active cases	% of total cases
Occupational and Professional Licensing ⁸	33	3%
Business Licensing and Regulation ⁹	36	3%
Child Support	50	4%
Contracts, Procurement, and Claims	6	<1%
DOH and DFCS-related Licensing/Certification	32	3%
Medicaid Benefits, Audits, & Rates	450	39%
Public Assistance Benefits	135	12%
PFD, PFE, PFC	67	6%
Retirement and Benefits	5	<1%
Substantiation of Child Abuse and Neglect	250	22%
Tax	20	2%
DEC	6	<1%
Municipalities	9	<1%
Department of Labor	14	1%
Other (VOC, VCC, University, HRC, etc.)	44	4%
Total	1157	

⁸ 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.

⁹ Includes cases related to the regulation of alcohol, marijuana, and tobacco businesses, as well as DCCED securities and insurance cases, and the Occupational Safety & Health Board.

Figure 1, below, depicts the relative number of cases on which OAH actively worked in 2024, divided into general subject areas.

Figure 1. OAH 2024 active caseload distribution (by number of cases)



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 2024, approximately 356 were diverted to ADR, including 316 cases diverted to the fast-track Medicaid mediation program, and 40 other matters diverted to formal ADR with an administrative law judge. In all, 31% of OAH's active cases were provided some form of formal ADR in 2024.

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 voluntary dismissal, a total of 209 full decisions were issued, in addition to thousands of lesser orders. This full-decision 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.

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 these factors contribute to the need for a degree of caution in assessing ALJ workload based on traditional metrics alone.¹⁰

Not including prehearing administrative adjudication time and collaborative counseling among ALJs to ensure consistency in administrative adjudicative decisions, OAH's ALJs collectively devoted 9,018 hours in 2024 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, 2024

Case Type	2024 Active OAH Cases	% of active cases	% of all billed ALJ Hours
Occupational licensing and certifications	33	3%	13%
Business licensing and regulation	36	3%	6%
Child Support	50	4%	4%
Contracts, Procurement, and Claims	6	<1%	<1%
DOH and DFCS-related Licensing/Certification	32	3%	1%
Medicaid Benefits, Audits, & Rates	450	39%	15%
Public Assistance Benefits	135	12%	7%
PFD, PFE, PFC	67	6%	6%
Retirement & Benefits	5	<1%	2%
Substantiation of Child Abuse and Neglect	250	22%	18%
Tax	20	2%	11%
DEC	6	<1%	4%
Municipal	9	<1%	5%
Department of Labor	14	1%	3%
Other (VOC, VCC, University, HRC, etc.)	44	4%	6%
Total	1157		

¹⁰ Staff resources, as opposed to ALJ resources, are burdened approximately equally regardless of the case type.

As Table 3 demonstrates, some case categories take a proportionately larger percentage of ALJ hours than others. Thus, while Medicaid-related cases made up 39% of OAH's active cases by sheer numbers, they accounted for only 15% of case billings.¹¹ Child welfare cases, 22% of all OAH cases by numbers, accounted for 18% of case billings. Professional licensing cases, by contrast, represent only 3% of active cases, but 13% of case billings, as these cases tend to involve lengthy hearings and complex legal and factual issues. Similarly, while OAH's tax, environmental permitting, municipal law, and university dockets each amounted to less than two percent of OAH's active case load in 2024, the complexity of these dockets resulted in the devotion of proportionally greater ALJ time on these matters.

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' 2024 work time across case types is shown in Figure 2.

Figure 2. OAH ALJ Time 2024

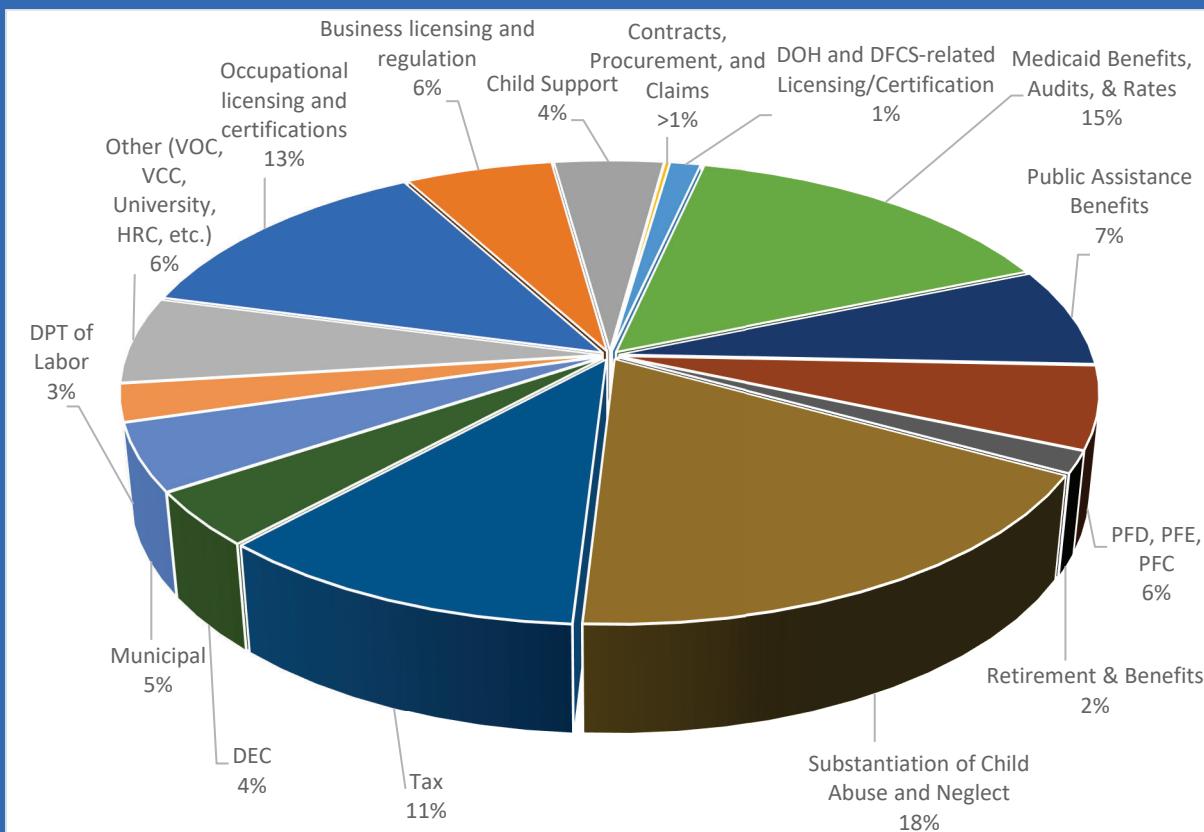
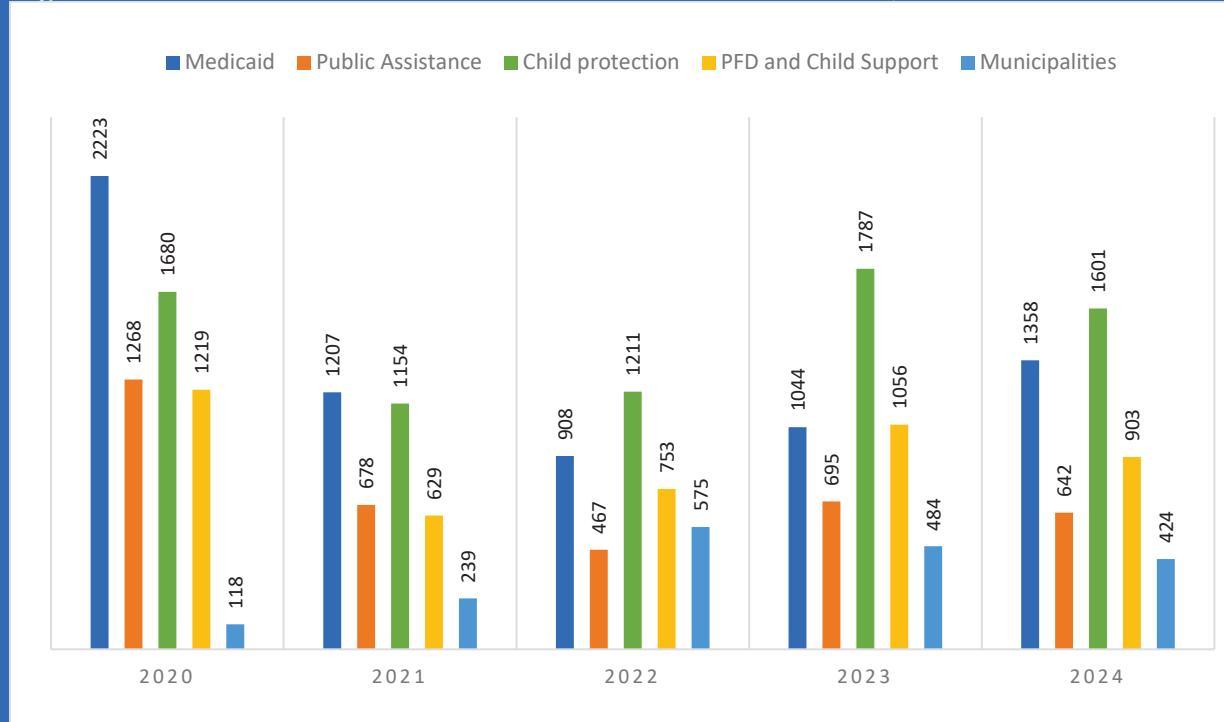


Figure 3, below, illustrates some of the changes in OAH's active dockets.

¹¹ This statistic understates the ALJ resources required when Medicaid benefits cases go to hearing.

Figure 3. Variation in ALJ hours worked across selected dockets, 2020-2024



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.¹² The most important of these is the 120-day time limit to take a case from hearing request 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.

¹² 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.

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.¹³

In 2024, as in past years, the 120-day deadline was met or not applicable in more than 98% of the total number of cases OAH closed. 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. For cases resolved prior to hearing, the median time to final resolution was 34 days. For cases resolved through a full decision, the median time to resolution was 91 days. Even among these cases, however, 1% percent were fully decided in under 30 days, 16% in under 50 days, and 50% in 90 days.

In OAH's high-volume Department of Health "Fair Hearings" cases, which have short final decision deadlines, OAH also monitors 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. This is a fast process but Alaskans and those impacted by initial decisionmakers' decisions require expedient, fast-track review.

6. *Court Appeals*

As in past years, very few OAH decisions are appealed to the superior courts, and the affirmance rate for such appeals is generally high. Of the decisions issued by OAH in 2024, only 11 or <1% — were appealed to the Superior Court in 2024. In addition, 4 new Alaska Supreme Court appeals were filed which arose out of OAH decisions. 11 Superior Court appeals of OAH decisions were closed in 2024. Of these, 6 decisions were affirmed, 4 cases were dismissed without a decision on the merits, and 1 decision was remanded in whole or in part. A total of 7

¹³ 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.

appeals arising out of OAH matters are currently open before the Alaska Supreme Court; 5 Supreme Court appeals of OAH matters were closed during 2024.

B. Fast-Track Medicaid Mediation Program

Since 2016, OAH has offered a fast-track mediation program to parties in Medicaid Fair Hearings cases. The voluntary 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.

Although OAH's Medicaid services docket remained contracted during 2024, the success of the fast-track mediation program continued this year. In 2024, 316 Medicaid Services cases were entered into the fast-track mediation program. Of these, 93% went to mediation, with 82% resolving through mediation.

The fast-track mediation program continues to be well received by recipients, care providers, and agency personnel. Parties value its expediency, and the opportunity to come together in an informal and transparent setting.

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. Of cases resolved through the fast-track mediation program, full resolution was achieved, on average, within 14 days of the hearing request – nearly 36 days faster than cases that went to hearing. The program has resulted in a notable reduction in OAH's billings to the DOH, as well as providing additional program savings for DOH because of the ability to resolve disputes more quickly than in a contested hearing.

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 2024, a formal peer review assignment was made in roughly 38% 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, even if formal peer review assignment is not assigned.

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 encouraged, particularly to strive toward consistency in opinions. Even if billing ability is lost, the new Chief Administrative Law Judge encourages such communication among our limited bench. Any upstream cost is diminished if a final decisionmaker believes he or she must reject the proposed decision and send it back for further review and decision-writing. Future budgets submitted to the Governor and Legislature will quantify the amount of this cost and suggest funding alternatives for the same.

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). To satisfy this requirement, OAH maintains a website of published decisions, sorted by OAH case type and by subcategories within them, and searchable for key terms. Because a great many of OAH’s decisions are confidential under law, OAH staff must typically redact identifying information from each decision before publishing it. Staff vacancies and other issues have also posed challenges to keeping the database up to date. Nonetheless, in 2024, OAH added 71 new OAH decisions to its online publications database.

E. Regulations

OAH’s Chief Administrative Law Judge 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 was required to adopt a hearing officer code of conduct, which applies to hearing officers of all agencies, not just to OAH ALJs. Review of the hearing code of conduct and OAH regulations has awaited the appointment of the Chief Administrative Law Judge. Now that Chief Wilson is appointed (with the understanding she must still be legislatively confirmed), OAH will pursue a comprehensive regulations review. OAH does intend to partner with the Department of Law on this review. Both agencies will also be reviewing and suggesting potential statutory changes to update both AS 44.62 (the Administrative Procedure Act) and AS 44.64 (OAH jurisdiction).

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." As mentioned above, OAH is consulting with DFCS regarding the creation of an informal review process in advance of referrals. OAH will monitor other agency regulatory projects on administrative adjudications.

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 distributes a survey to all hearing participants at the close of a case, whether through dismissal or when a final decision in a case is issued. Surveys can be completed online or returned in the mail. As mentioned in prior annual reports, in the second half of 2023, recognizing a gradual decrease in the number of survey responses, OAH altered its survey protocol to see if participation could be increased. The result was a significant increase in survey responses returned to OAH or submitted online. This increase continued throughout 2024 with OAH seeing a higher survey response rate than in 2023.

A summary of all responses is provided in Appendix B to this report. Respondents generally reported that the judge was prepared, had explained the process, treated participants fairly, and issued a decision promptly. Even when a litigant was not satisfied with the outcome of the case, most respondents were satisfied with the adjudication process overall.

A particularly noteworthy aspect of this year's survey results was an across-the-board increase in items rated "excellent," as seen in Figure 4, below.

It has been suggested that OAH partner with the Alaska Commission on Judicial Conduct to conduct a survey of all legal practitioners who appear before OAH so they may provide review, beyond one matter of the office and administrative law bench as a whole. The newly appointed Chief will pursue those discussions in 2025.

Figure 4: Survey respondents characterizing OAH's work as “Excellent,” 2019-2024



The survey tool also provides a place for hearing participants to add narrative comments about their OAH experience. As with the survey responses overall, the comments received were vastly positive, and included the following:

- “I wish state court operated the way the OAH operates!”
- “[The OAH Administrative Law Judge] is always prepared and knowledgeable in the process.”
- “The judge was impartial towards both parties. [The OAH Administrative Law Judge] was thorough in her explanation of the proceedings and ensured that both parties were respected and heard.”
- “[The OAH Administrative Law Judge] was very respectful towards both parties and made sure appellant understood the process fully before proceeding.”
- “I thoroughly enjoy working with OAH. Everyone there is extremely professional and courteous.”

- “The OAH clerks are always helpful and positive; they go the extra mile in getting things scheduled in a way that meets all party’s needs.”
- “As this was a new process for our organization, we were a little unclear on certain steps, however, everyone was very helpful in clarifying things when we asked questions. Because this case was complex and one of first impression, I appreciated the amount of time and research the judge conducted in order to provide detailed information and clarity on regulations. We felt the judge ruled fairly and helped clarify the path forward for childcare assistance eligibility in the future. We were grateful for the process.”

A small handful of respondents expressed dissatisfaction either with the administrative hearing process in its entirety, or with some aspect of their experience. OAH takes all participant feedback seriously and strives to learn from it.

G. Training and Professional Development

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[.]¹⁴

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.

In keeping with OAH’s mandate to provide training and technical assistance to other administrative adjudicators, OAH provided training about the adjudicative process to a range of audiences, including state worker’s compensation hearing officers, several Department heads and other final decisionmakers, including boards and commissions, and to state employees tasked with administrative investigations. OAH also conducted frequent outreach to final decisionmakers and responded to informal inquiries from other adjudicators and final adjudicatory decisionmakers throughout the year.

¹⁴

AS 44.64.020(a)(6).

Within OAH, 2024 was also a busy year for ALJ professional development. OAH's Chief Administrative Law Judge attended the National Judicial College's administrative adjudication course. OAH's Chief also implemented monthly staff meetings, each of which include a substantive discussion on legal or professional development subject matters. OAH has also begun joint trainings with the Department of Law to better prepare newer attorneys and paralegals with administrative adjudications. A similar training was held with attorneys representing fair hearing respondents, as sponsored by the Alaska Legal Services Corporation.

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.¹⁵ 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.¹⁶ The Chief ALJ, therefore, must field questions from hearing officers about code compliance requirements and, in appropriate circumstances, issue written opinions.

In 2024, the Chief ALJ received no complaints of a violation of the Code of Hearing Officer Conduct that met the criteria for consideration under 2 AAC 64.070. The Chief ALJ did receive one complaint and requested the complainant to comply with the requirements of 2 AAC 64.070. As of this date, that individual has not satisfied this request. The complaint did not involve an administrative law judge employed at OAH.

I. Workers' Compensation Appeals Commission Recruitment

Under AS 23.30.007, the Chief ALJ must recruit for vacancies on the Workers' Compensation Appeals Commission (WCAC) 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. By statute, only individuals with 18 months or more of service on the workers compensation board are eligible to be considered for a WCAC vacancy, making this a very small recruitment pool.

The current Chair of the WCAC is retiring March 1, 2025. A priority for February 2025 is to submit three names for consideration to the Governor. *Pro tem* appointments are available through at least June 2025 so recruitment of a fuller panel might continue.

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

¹⁵ AS 44.64.050(c). Complaints alleging violations by the Chief ALJ are considered by the Attorney General.

AS 44.64.050(e).

¹⁶ 2 AAC 64.060(c).

administrative hearings held by the office or other state agencies.” AS 44.64.020(a)(7). Prior Chief ALJ’s have made recommendations to the Legislature that the undersigned is still reviewing (See 2023 Annual report). However, the new Chief’s preference is to poll and work with referring state agencies and the Department of Law to identify their concerns about AS 44.62 and AS 44.64 and at the same time ensure the due process rights and positions of individuals and entities whose cases are referred to OAH are not unduly compromised by those recommendations. Subjects of concern to review might include.

- The level of deference, if any, a final decisionmaker gives to initial decisionmakers
- Time allowed for production of administrative records
- Limiting or expanding discovery or subpoena power
- Limiting supplementation of administrative records in certain classes of administrative adjudications
- Administrative law judge review of proposals for action and ability to alter proposed decisions before referral to final decisionmakers
- Time allowed for final decisionmaker review of proposed decisions
- Time allowed for remand of non-adopted proposed decisions

The undersigned is also reviewing the funding and operations of the Office. Future reports and discussions with the Governor’s Office and Legislature will include:

- Any recommended increase to general fund appropriations
- Changing the billing model for reimbursable service agreements with referring agencies from an hours-worked to a retainer and pro rata share of referrals and work based on rolling three-year averages
- Increasing program receipt authority to hear appeals from local governments
- Ensuring competitiveness with other state administrative agencies employing lawyers with Range 25 as the norm for administrative law judges
- Consolidating the Workers Compensation Appeal Commission
- Ensuring long-term success of office with filling vacant positions rather than relying on retired bench

As noted in prior reports, OAH's current funding model creates unpredictability when at the same time OAH's personnel and infrastructure costs are constant and subject to annual increases. Moreover, OAH is not an agency that can just close its doors were referrals to decrease or vary. Just like Article 3 courts, it is a tribunal with mandatory jurisdiction that must exist whether a matter is referred for adjudication or not. It is the Chief Administrative Law Judge's privilege in 2025 to review all these issues – both substantive and operational – and present long-term solutions to both the Governor and the Legislature.

IV. Conclusion

The Twenty-First Annual Report is respectfully submitted this 31st day of January 2025.



Joan M. Wilson
Chief Administrative Law Judge

Appendix A: Statutory Obligations

Alaska Statues 44.64 (Office of Administrative Hearings)

§ 44.64.010. Office created

(a) There is created in the Department of Administration an independent office of administrative hearings under the direction of the chief administrative law judge.

(b) The chief administrative law judge must

- (1) be a resident of the state;
- (2) have experience in administrative law;
- (3) be licensed to practice law in this state and have been admitted to practice law in this state for at least five years; and
- (4) have experience representing clients in administrative or judicial proceedings.

(c) The chief administrative law judge is appointed to a five-year term of office by the governor and is subject to confirmation by the legislature. An individual may serve not more than three full or partial terms as chief administrative law judge. The governor may remove the chief administrative law judge from office only for good cause. The basis for removal shall be stated in writing. A vacancy in the office of chief administrative law judge shall be filled by the governor, and the individual appointed serves for the remainder of the term to which appointed.

(d) The chief administrative law judge shall receive a monthly salary that is not less than Step A nor more than Step F, Range 27, of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. The chief administrative law judge is in the partially exempt service.

§ 44.64.020. Powers and duties of chief administrative law judge

(a) The chief administrative law judge shall

- (1) supervise the office;

- (2) employ administrative staff, who shall be in the classified service;
- (3) employ administrative law judges, who shall be in the partially exempt service;
- (4) preside over administrative hearings handled by the office or, based upon the qualifications and expertise of the administrative law judges, assign administrative law judges to preside over hearings, and protect, support, and enhance the decisional independence of the administrative law judges;
- (5) establish and implement performance standards, including provision for timeliness, and peer review programs for administrative law judges employed or retained by the office;
- (6) 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;
- (7) survey administrative hearing participants and use other methods to monitor the quality of administrative hearings held by the office and other state agencies, and submit to the governor and the legislature on January 31 of each year the results of the survey 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;
- (8) review and comment on regulations proposed by state agencies to govern procedures in administrative hearings;
- (9) enter into contracts as necessary to carry out the functions of the office;

(10) annually prepare and submit to the commissioner of administration a budget for the office for the next fiscal year that shall include and separately identify funding for training and continuing education; a copy of the budget submitted to the commissioner under this paragraph shall also be submitted to the Finance Committee of each house of the legislature;

(11) after consulting with affected agencies, adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the duties of the office and implement this chapter;

(12) receive and review applications from individuals seeking appointments to the Workers' Compensation Appeals Commission and submit the names of individuals to the governor for appointment as provided in AS 23.30.007(d); and

(13) appoint a chair pro tempore for the Workers' Compensation Appeals Commission as provided in AS 23.30.007(m).

(b) In carrying out the responsibilities of the office, the chief administrative law judge shall seek to accomplish the following goals:

(1) provide for the delivery of high quality adjudication services in a timely, efficient, and cost-effective manner;

(2) ensure respect for the privacy and dignity of the individuals whose cases are being adjudicated and protect them from threats, intimidation, and harassment;

(3) foster open and clearly explained agency decisions and improve public access to the process of administrative adjudication;

(4) guarantee protection of all parties' due process rights, increase the public parties' perception of fairness in administrative adjudication, and foster acceptance of final administrative decisions by the public and affected parties;

(5) protect the integrity of the process of administrative adjudication and decisional

independence of administrative adjudicators; and

(6) increase consistency in administrative procedures and decisions.

§ 44.64.030. Jurisdiction of the office

(a) The office shall conduct all adjudicative administrative hearings required under the following statutes or under regulations adopted to implement the statutes:

(1) AS 04.11.510(b)(1) and (c) (alcoholic beverages license);

(2) AS 05.15 (charitable gaming);

(3) AS 05.20 (recreational devices);

(4) AS 05.90.001 (special racing events);

(5) AS 06 (banks, financial institutions, and fund claims), except as provided otherwise by AS 06.60.590;

(6) AS 08 (occupational licensing), other than AS 08.08, AS 08.18.125, and AS 08.62.046;

(7) AS 10.06 (Alaska Corporations Code);

(8) AS 10.13 (Alaska BIDCO Act);

(9) AS 10.25.375 (Electric and Telephone Cooperative Act);

(10) AS 10.50.408 (limited liability companies);

(11) AS 14.11.016 (education-related facility grants);

(12) AS 14.18 (discrimination in public education);

(13) AS 14.25.006 (teachers' retirement system);

(14) AS 14.25.175 (waiver of adjustments under teachers' defined benefit plan);

(15) AS 14.40.155 (suspension and removal of regents);

(16) AS 14.48 (postsecondary educational institutions);

(17) AS 17.20 (Alaska Food, Drug, and Cosmetic Act), other than AS 17.20.060 and 17.20.360;

(18) AS 18.07 (certificate of need program);

(19) AS 18.20 (hospitals and nursing facilities);

(20) AS 21.09, AS 21.22.190, AS 21.27, except under AS 21.27.420(d), AS 21.34, AS 21.36, except under AS 21.36.461, AS 21.69, AS 21.86.200, AS 21.87, and AS 21.96 (insurance);
(21) AS 25.27 (child support services);
(22) AS 32.06 (Uniform Partnership Act);
(23) AS 34.45 (unclaimed property);
(24) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
(25) AS 36.30 (State Procurement Code), other than AS 36.30.627(a)(2);
(26) AS 38.05.065 (contracts for sale of state land);
(27) AS 39.30.165 (supplemental benefits system);
(28) AS 39.30.335 (teachers' and public employees' health reimbursement arrangement plan);
(29) AS 39.35.006 (public employees' retirement system);
(30) AS 39.35.522 (waiver of adjustments under public employees' defined benefit plan);
(31) AS 39.45.055 (public employees' deferred compensation program);
(32) AS 39.52 (Alaska Executive Branch Ethics Act);
(33) AS 43.23 (permanent fund dividends);
(34) AS 43.70 (Alaska Business License Act);
(35) AS 44.50 (notaries public);
(36) AS 44.77 (claims against the state);
(37) AS 45.30.040 (mobile homes);
(38) AS 45.48.080(c) (breach of security involving personal information);
(39) AS 45.56 (Alaska Securities Act);
(40) AS 45.57 (Takeover Bid Disclosure Act);
(41) AS 46 (water, air, energy, and environmental conservation), other than AS 46.03.820, 46.03.850, AS 46.39, and AS 46.40;
(42) AS 47.05 (assistance programs);
(43) AS 47.07 (medical assistance for needy persons);

(44) AS 47.25 (public assistance);
(45) AS 47.27 (Alaska temporary assistance program);
(46) AS 47.32 (licensing by the Department of Health and Social Services);
(47) AS 47.37.130 (alcohol safety action program);
(48) AS 47.37.140 (treatment facilities);
(49) AS 47.45.050 (longevity bonuses);
(50) AS 47.45.306 (Alaska senior benefits payment program).

(b) An agency may request the office to conduct an administrative hearing or other proceeding of that agency or to conduct several administrative hearings or other proceedings under statutes not listed in (a) of this section. The office may provide the service after entering into a written agreement with the agency describing the services to be provided and providing for reimbursement by the agency to the office of the costs incurred by the office in providing the services.

(c) To the extent otherwise permitted by law, the agency may delegate to the administrative law judge assigned to conduct the hearing on behalf of the agency the authority to make a final agency decision in the matter. The final decision may be appealed to the superior court by any party.

(d) Nothing in this chapter may be construed to create a right to a hearing or to require a hearing that is not required under other law.

§ 44.64.040. Administrative law judges

(a) An administrative law judge must be admitted to practice law in this state and must have been admitted to practice in this state for at least two years before being employed or retained with the office. The chief administrative law judge shall

establish additional qualifications for administrative law judges employed or retained by the office and for those administrative law judges that may be assigned to particular types of cases. An administrative law judge is in the partially exempt service. Notwithstanding AS 39.25.120(b), full-time administrative law judges employed by the office are subject to the personnel rules adopted under AS 39.25.150(7), (15), and (16).

(b) An administrative law judge employed or retained by the office may, in conducting an administrative hearing for an agency, exercise the powers authorized by law for exercise by that agency in the performance of its duties in connection with the hearing. An administrative law judge may

- (1) engage in alternative dispute resolution under regulations adopted by the chief administrative law judge that is in addition to any alternate dispute resolution procedure used by an agency before the case is referred to the office;
- (2) order a party, a party's attorney, or another authorized representative of a party to pay reasonable expenses, including attorney fees, incurred by another party as a result of actions done in bad faith or as a result of tactics used frivolously or solely intended to cause unnecessary delay;
- (3) perform other necessary and appropriate acts in the performance of official duties.

(c) An administrative law judge employed by the office must devote full time to the duties of the office unless appointed to a position that is less than full-time. An administrative law judge employed by the office may not perform duties inconsistent with the duties and responsibilities of an administrative law judge.

(d) The office may enter into a contract with an individual who meets the qualifications

established in (a) of this section to serve as an administrative law judge in a particular administrative hearing or in several hearings of the same type. The individual is subject to AS 39.52 (Alaska Executive Branch Ethics Act). Notwithstanding AS 36.30.015(d), the office may contract for or hire an administrative law judge without notifying or securing the approval of the Department of Law.

§ 44.64.050. Hearing officer conduct

(a) An administrative law judge employed full time by the office or a hearing officer employed full time by an agency may not serve in any other judicial or quasi-judicial capacity or engage in the private practice of law.

(b) The chief administrative law judge shall, subject to AS 39.52.920 and by regulation, adopt a code of hearing officer conduct. The code shall apply to the chief administrative law judge, administrative law judges of the office, and hearing officers of each other agency. The following fundamental canons of conduct shall be included in the code: in carrying out official duties, an administrative law judge or hearing officer shall

- (1) uphold the integrity and independence of the office;
- (2) avoid impropriety and the appearance of impropriety;
- (3) perform the duties of the office impartially and diligently;
- (4) conduct unofficial activities in ways that minimize the risk of conflict with the obligations of the office; and
- (5) refrain from inappropriate activity in seeking employment with another agency or employer or in seeking reappointment.

(c) Except as provided in (e) of this section, the chief administrative law judge shall receive and consider all complaints against

administrative law judges or hearing officers employed or retained by the office or another agency alleging violations of (a) of this section or of the code of hearing officer conduct. The chief administrative law judge shall deliver the complaint to the attorney general when the chief administrative law judge determines that the conduct alleged, if true, would constitute a violation of (1) subsection (a) of this section; or (2) the code and would warrant disciplinary action under the regulations adopted under (b) of this section.

(d) If the attorney general determines that a violation has occurred, the attorney general shall submit written findings to the agency that employed or retained the administrative law judge or hearing officer who is the subject of the complaint together with recommendations for corrective or disciplinary action. If the administrative law judge is employed or retained by the office, the chief administrative law judge shall take appropriate corrective or disciplinary action.

(e) The attorney general shall, by regulation, establish procedures to implement (d) of this section, including procedures for investigating and holding hearings on complaints. The attorney general shall receive and consider any complaint filed against the chief administrative law judge under this section, and may investigate or hold a hearing on the complaint in compliance with the regulations adopted under this subsection.

§ 44.64.055. Reimbursement agreements

The office may enter into agreements for reimbursement for services related to an administrative hearing from a school district, municipality, or other governmental entity if the reimbursement is authorized by other law.

§ 44.64.060. Procedure for hearings

(a) The chief administrative law judge shall, by regulation, establish procedures for administrative hearings conducted by the office. Each administrative hearing under the jurisdiction of the office or that has been transferred to the office by an agency shall be conducted in accordance with statutes that apply to that hearing, including, if applicable, AS 44.62 (Administrative Procedure Act). In case of conflict between this section and another applicable statute establishing procedures for administrative hearings, the other statute prevails. However, to the extent regulations adopted by an agency for the conduct of an administrative hearing conflict with regulations adopted by the chief administrative law judge under this subsection, the regulations adopted by the chief administrative law judge control to the maximum extent possible without conflicting with applicable statutes.

(b) When an agency receives a request for a hearing that is subject to AS 44.64.030, the agency shall, within 10 days and in writing, deny the request for reasons provided by law or grant the request and refer the case to the office. The agency shall immediately give notice of the denial or referral to the requesters and the office. If the request is denied, the denial may be appealed to the superior court as provided by other law. If the request is granted, the agency shall, within 15 days after receiving the request, compile and transmit to the office a copy of the request for a hearing, the names, addresses, and telephone numbers of all parties and their representatives, and the agency's decision, if any, together with the record relied on to support the decision. Any information provided to the office that is confidential by law shall be identified by the agency as confidential and shall be kept confidential by the office.

(c) The agency may, with materials transmitted under (b) of this section, request the chief administrative law judge to permit the individual, board, or commission that will make the final decision to participate with the assigned administrative law judge in the conduct of the administrative hearing. The chief administrative law judge shall determine the degree and manner of participation and may terminate that participation at any time. However, the individual, board, or commission that participates under this subsection may not serve as the administrative law judge or preside during the hearing and may not take action on behalf of the agency in the agency's capacity as a party to the proceedings.

(d) An administrative law judge employed or retained by the office shall, within 120 days after the date the agency received the request for a hearing, prepare a proposed decision, unless another time period is provided by law or agreed to by the parties and the chief administrative law judge. The administrative law judge shall immediately submit the proposed decision to the agency.

(e) A proposed decision in an administrative hearing shall be in a form that may be adopted as the final decision by the agency with authority to make the final decision. The proposed decision is a public record, except as otherwise provided by statute. A copy of the proposed decision shall be served by the office on each party in the case or on the attorneys representing those parties in the hearing. Unless the office has established a shorter time period or another statute has established a different time period, within 30 days after the proposed decision is served, a party may file with the agency a proposal for action under (1)--(5) of this subsection. The agency with

authority to make a final decision in the case retains agency discretion in the final disposition of the case and shall, within 45 days after the date the proposed decision is served or at the next regularly scheduled meeting that occurs at least 45 days after the proposed decision is served, do one or more of the following:

- (1) adopt the proposed decision as the final agency decision;
- (2) return the case to the administrative law judge to take additional evidence or make additional findings or for other specific proceedings, in which case the administrative law judge shall complete the additional work and return the revised proposed decision to the agency within 45 days after the original decision was returned under this paragraph;
- (3) exercise its discretion by revising the proposed enforcement action, determination of best interests, order, award, remedy, sanction, penalty, or other disposition of the case, and adopt the proposed decision as revised;
- (4) in writing, reject, modify, or amend a factual finding in the proposed decision by specifying the affected finding and identifying the testimony and other evidence relied on by the agency for the rejection, modification, or amendment of the finding, and issue a final agency decision;
- (5) in writing, reject, modify, or amend an interpretation or application in the proposed decision of a statute or regulation directly governing the agency's actions by specifying the reasons for the rejection, modification, or amendment, and issue a final agency decision.

(f) If a final decision is not issued timely in accordance with (e) of this section, the administrative law judge's proposed decision is the final agency decision.

§ 44.64.070. Disqualification of administrative law judge

(a) The chief administrative law judge or an administrative law judge employed or retained by the office is disqualified from a case in which the administrative law judge cannot accord a fair and impartial hearing or for other reasons established in the code of hearing officer conduct.

(b) A party may request the disqualification of the chief administrative law judge or another administrative law judge by filing an affidavit, before the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded by that administrative law judge.

Notwithstanding AS 44.62.450(c), upon receipt of the affidavit, the administrative law judge assigned to the administrative hearing shall make a determination. If the affiant objects to the decision, the matter shall be decided by the chief administrative law judge, whose decision is final, or if the hearing is assigned to the chief administrative law judge, by the attorney general, whose decision is final.

(c) In addition to disqualification of an administrative law judge under (a) and (b) of this section, each side is entitled to change the assigned administrative law judge once. Two or more parties aligned on the same side of an action shall be treated as one side for purposes of this subsection, but the chief administrative law judge may allow an additional change to a party whose interests are adverse to the interests of another party on the same side. A party wishing to exercise the right to change the administrative law judge shall give notice to the chief administrative law judge within five days after notice is given that the case has been assigned. A party waives the right to a change in the assigned administrative

law judge by participating before that administrative law judge in any proceeding or conference involving the case.

§ 44.64.080. Agency cooperation

(a) All agencies shall cooperate with the chief administrative law judge and with other administrative law judges of the office in the matters involving the duties of the office.

(b) Except as provided under AS 44.64.070 or by regulation adopted under this chapter, an agency may not select or reject a particular administrative law judge for assignment to an administrative hearing.

(c) After an administrative hearing is referred by an agency to the office for hearing, the agency may not take further adjudicatory action in the case, except as a party litigant or to render a final decision as provided by law. This subsection does not otherwise limit the agency's authority to take action affecting a party to the case.

§ 44.64.090. Administrative hearing records

(a) The office shall acquire and organize statistical and other information relating to administrative hearings of the office and of other agencies. The office shall acquire and organize copies of proposed and final agency decisions in administrative hearings and copies of court decisions resulting from those administrative hearings. The information and decisions shall be made available to the public, agencies, and the legislature. The office shall make final agency decisions reached after administrative hearings available online through an electronic data base.

(b) This section does not apply to records that are confidential or privileged.

§ 44.64.095. Federal requirements

Federal requirements applicable to an administrative hearing prevail to the extent they conflict with any provision of AS 44.64.010--44.64.200.

§ 44.64.200. Definitions

In this chapter,

(1) “administrative hearing” means a quasi-judicial hearing before an agency; it does not include an informal conference or review held by an agency before a final decision is issued or a rate-making proceeding or other nonadjudicative public hearing;

(2) “administrative law judge” means a hearing officer who is retained or employed by the office;

(3) “agency” means an agency of the executive branch of state government, including an officer, a division, or another subunit of an agency, a board or commission, a public corporation, and the University of Alaska;

(4) “hearing officer” means an individual who presides over the conduct of an administrative hearing and who is retained or employed by an agency for that purpose;

(5) “office” means the office of administrative hearings established in AS 44.64.010.

Appendix B: Post-Hearing Survey Results: January 2024-December 2024

Demographics of Responding Hearing Participants

Question	Number of Responses¹⁷			
	<i>Attorney</i>	<i>Party</i>	<i>Agency Representative</i>	<i>Other</i>
<i>Define your participation</i>	6	8	49	0
<i>Did you attend in person or by telephone/videoconference?</i>	<i>Attended in person</i>		<i>Attended by telephone/videoconference</i>	
	1		62	
<i>Where do you live?</i>	<i>Rural Alaska</i>	<i>City in Alaska</i>	<i>Outside Alaska</i>	
	18	42	3	
<i>What was the final outcome of your hearing?</i>	<i>In your favor</i>	<i>Not in your favor</i>	<i>Other</i>	
	40	12	8	
<i>Including this one, how many OAH hearings have you participated in?</i>	<i>One</i>	<i>2 to 10</i>	<i>More than 10</i>	
	8	16	39	

Hearing Evaluation for Administrative Law Judge (ALJ)	Excellent	Adequate	Poor
ALJ's preparation for the case	44	14	2
ALJ's courtesy toward both parties	53	6	2
ALJ's impartiality toward both parties	44	14	2
ALJ's efficiency	41	11	7
ALJ explained the hearing process	47	13	2

Written Decision Evaluation	Excellent	Adequate	Poor
ALJ's promptness issuing order	42	15	3
Decision clearly explained the issues and ruling	44	10	2

Overall Evaluation	Agree	Disagree
Office of Administrative Hearings Clerks were courteous and helpful.	55	3
Overall, I was satisfied with the hearing process and felt it was a positive experience.	50	7

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Note: not all respondents answered every question.