

The OAH



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Governor

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Vol. 33

October 2004

www.azoah.com

Official Newsletter of the Arizona Office of Administrative Hearings

Lights...Camera...Action...At Studio OAH

by Wendy S. Morton, Administrative Law Judge

The Office of Administrative Hearings ("OAH") is proud to announce the blockbuster hit video "Preparing for Hearing", a critically acclaimed, star-studded...CUT!

Not to worry, "Hollywood" has not gone to our heads.

At OAH, our mission has always been to provide fair and impartial hearings to parties in an atmosphere where everyone is treated with respect. Now, with a little "Hollywood" and a touch of technology, we are even better able to help serve those who appear before us. Unsure what to expect from your administrative hearing? Log on to our website (www.azoah.com) and access our new video, "Preparing for Hearing."

"Preparing for Hearing" introduces you to real-life scenarios from administrative hearings. "Ripped from the headlines" of our newsletter, you will have an opportunity to hear the answers to the

most commonly asked questions about appearing at OAH. You will get a chance to experience what an administrative hearing is like from the comfort of your own home.

"Preparing for Hearing" is an in-house production that was created using our local (and often hidden) talents. We shot "on-location," without a set dresser or any special effects. The scenes you will see take place in an actual OAH hearing room, so you will have a chance to sit in the seat you may sit in during your hearing. The parties and Administrative Law Judges you will see are not stunt doubles. They are the people that you may actually meet at OAH; in some cases, you may see the very judge you will appear before in your case. While all Judges have different personalities, you will get a feel for what it is like to appear before a Judge at hearing.

The video tracks the hearing process itself; from your initial preparation (writing direct and cross examination questions, and deciding what to bring to your hearing) to what to expect on the day

"Lights, Camera, Action"
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Director's note: OAH is committed to fairness and making hearings accessible to all. This article is part of a series of informational articles to educate the public and parties who appear before us about the hearing process and how to better present their cases. The current article may be found at OAH's website at www.azoah.com along with all previous articles published in the OAH Newsletter.

The Office of Administrative Hearings (OAH) began operations on January 1, 1996. Administrative Hearings previously provided by regulatory agencies (except those specifically exempted) are now transferred to the OAH for independent proceedings. Our statutory mandate is to "ensure that the public receives fair and independent administrative hearings."

The process of unifying the administrative hearings function in OAH-style agencies began in 1945 with California. The current American states and cities, and Canadian

provinces, having adopted the model, with year of inception are: Alabama (1998); Alaska (2004); Arizona (1996); California (1961); City of Chicago (1997); Colorado (1976); Florida (1974); Georgia (1995); Iowa (1986); Kansas (1998); Louisiana (1996); Maine (1992); Maryland (1990); Massachusetts (1974); Michigan (1996); Minnesota (1976); Missouri (1965); New Jersey (1979); New York City (1979); North Carolina (1986); North Dakota (1991); Oregon (1999); South Carolina (1994); South Dakota (1994); Tennessee (1975); Texas (1991); Washington D.C. (1999); Washington (1981); Wisconsin (1978); Wyoming (1987); and Province of Quebec ().

Mission Statement:

We will contribute to the quality of life in the State of Arizona by fairly and impartially hearing the contested matters of our fellow citizens arising out of state regulation.

1st Quarter Statistics At A Glance

Acceptance Rate:

ALJ findings of fact and conclusions of law were accepted in **95.9%** of all Administrative Law Judge Decisions acted upon by the agencies.* ALJ Decisions, including orders, were accepted without modification in **91.2%** of all Administrative Law Judge Decisions acted upon by the agencies. **64.8%** of all agency modification was of the order only (i.e. penalty assessed).

Appeals to Superior Court:

There were 20 appeals filed in Superior Court.

Rehearings:

The rehearing rate was **1.07%**, defined as rehearings scheduled (8) over hearings concluded (747).**

Completion Rate:

The completion rate was **94.4%**, defined as cases completed (2051) over new cases filed (2172).

Continuance:

The average length of a first time continuance based on a sample of cases (first hearing setting and first continuance both occurred in the 1st quarter) was **52.09 days**. The frequency of continuance, defined as the number of continuances granted (257) over the total number of cases first scheduled (2127), expressed as a percent, was **12.1%**. The ratio of first settings (2121) to continued settings on the calendar (196) was **1 to .0924**

Dispositions:

Hearings conducted: **54.6%**; vacated prior to hearing: **43.9%**; hearings withdrawn by the agency: **1.5%**.

Contrary Recommendations and Agency Response: 12.8% of Administrative Law Judge Decisions were contrary to the original agency action where the agency took a position. Agency acceptance of contrary Administrative Law Judge Decisions was **68.6%**.

*1.85% of Administrative Law Judge Decisions were certified as final by the OAH due to agency inaction or were rendered moot by settlement.
** Cases which were vacated or which settled on the day of hearing are not included.

“Lights, Camera, Action”

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of your hearing. Learn how to present opening statements and closing arguments by watching “parties” demonstrate what to do (and what not to do). Watch direct and cross examinations and making objections “risk free” and see if you can spot the most effective and least effective techniques.

Unsure about how to get a piece of evidence admitted? Observe the hearing process in a simplified, step-by-step demonstration and learn what pitfalls to avoid in your own hearing.



“Preparing for Hearing” can be viewed in its entirety (39:01 minutes) or in 10 different individual segments. They include Direct Examination, Cross Examination, Opening Statements, Closing Arguments, Exhibits, Objections, The Record, and Your Experience at OAH. We had so much fun “movie-making” that we also created a humorous review in a separate segment entitled “Don’t Do What *Denise Don’t Does*” (1:49).

For computer viewing, various formats (from broadband and cable to DSL to dialup) are available. You may also obtain a free DVD of “Preparing for Hearing” by contacting the OAH. Coming soon to our lobby, “Preparing for Hearing” will be played in an interactive kiosk so that you can select and review segments of interest as you await the start of your hearing.



The OAH staff and Judges enjoyed the creative process in bringing “Preparing for Hearing” to you. The process challenged us to think about each important segment of the hearing, and to explain and demonstrate each segment in a simple and entertaining way so that, by watching, parties can become more informed and more comfortable with the hearing



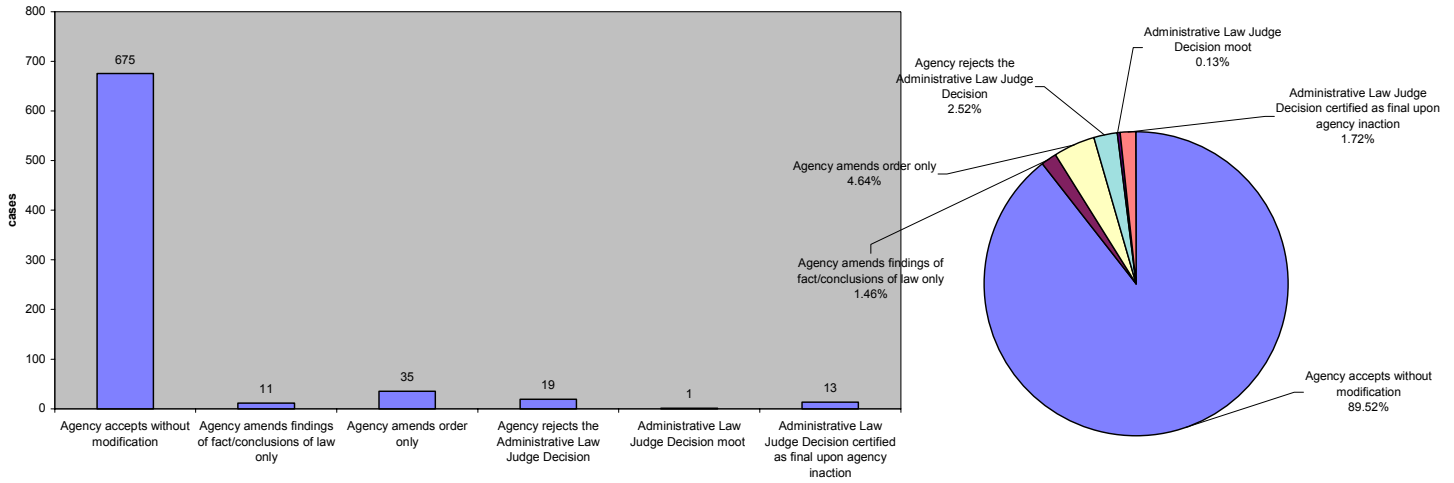
process. We want everyone who appears before us to understand what to expect and what will be expected of them. We believe that nothing ensures success like preparation. We hope that “Preparing for Hearing” assists you and that your hearing at OAH is a pleasant experience.

“Just know your lines and don’t bump into the furniture.”

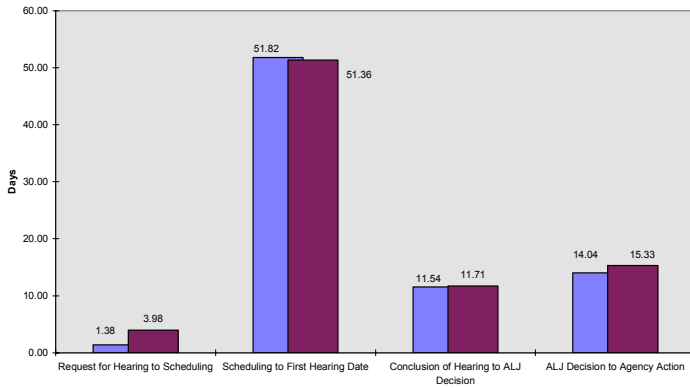
- Spencer Tracy

“Acting is the most minor of gifts. After all, Shirley Temple could do it when she was four.”

- Katherine Hepburn



Average Time Between Selected Events - Appealable Agency Actions v. Contested Cases*, July 1 - September 30, 2004



*Note: *Appealable Agency Actions* are agency actions taken before an opportunity for a hearing. A typical example would be the denial of a license. A party is entitled to a hearing before the OAH before the action becomes final. *Contested Cases* involve actions yet to be determined by an agency. An example would be proposed discipline on a professional license with the possibility of suspension or revocation. Parties are entitled to a hearing before the OAH prior to the agency acting.

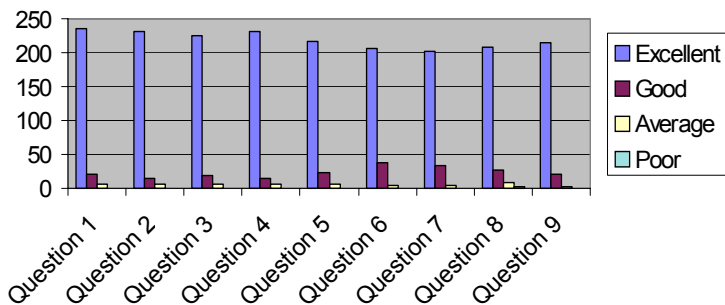
2,172 Cases Filed July 1, 2004 - September 30, 2004

	1st Q FY 2005			1st Q FY 2005			1st Q FY 2005	
Accountancy	2	2	Dental	5	5	Parks	0	0
Acupuncture Board	0	0	Economic Security	0	0	Peace Ofc. Standards	7	7
Administration	4	4	Economic Security-CPS	52	52	Physical Therapy	0	0
Admin. Parking	59	59	Education	1	1	Podiatry	0	0
Agriculture	0	0	Environ. Quality	32	32	Psychologist Examiners	0	0
Ag. Empl. Rel. Bd.	0	0	Fingerprinting	113	113	Public Safety - CW	0	0
AHCCCS	826	826	Funeral	0	0	Public Safety - Trans	5	5
Alternative Fuel	0	0	Gaming	3	3	Public Safety - Adult CC	2	2
Appraisal	15	15	Health Services	115	115	Pvt. Post. Ed.	0	0
Arizona Trial Courts	0	0	Insurance	18	18	Racing	0	0
Arizona Retirement Sys	1	1	Land	3	3	Radiation Regulatory	0	0
Attorney General	1	1	Liquor	12	12	Registrar of Contractors	522	522
Arizona Works	0	0	Lottery	0	0	Real Estate	41	41
Athletic Board	0	0	Maricopa Cty. Housing	0	0	Revenue	32	32
Banking	13	13	Medical Board	2	2	School - Deaf & Blind	0	0
Behavioral Health Ex.	2	2	Medical Radiologic	0	0	Secretary of State	6	6
Building/Fire Safety	18	18	Naturopathic	0	0	Structural Pest Control	0	0
Charter Schools	1	1	Nursing	21	21	Technical Registration	0	0
Chiropractic	2	2	Nursing Care Admin.	3	3	Veterinary Board	0	0
Clean Elections	0	0	Occupation Therapy	0	0	Water Qual. App. Bd.	1	1
Community Colleges	0	0	Optometry	1	1	Water Resources	2	2
Cosmetology	3	3	Osteopathic	0	0	Weights and Measures	32	32

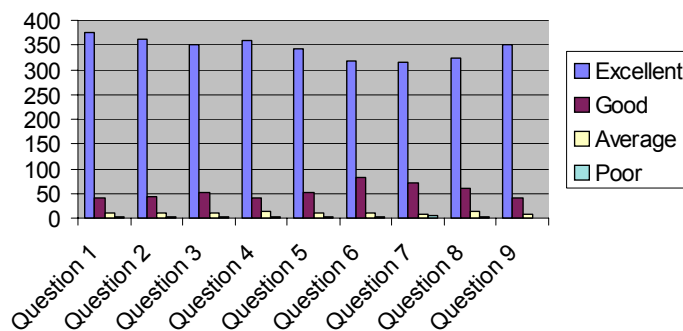
Evaluations of OAH Services

Note: The four major groups of those who responded are: represented private party; unrepresented private party; counsel for a private party; and counsel for the agency. The evaluations are filled out immediately after the hearing, and the evaluations are not disclosed to the ALJ involved. They are used by management to improve the OAH process and do not affect the decisions issued.

Unrepresented Responses 1st Quarter



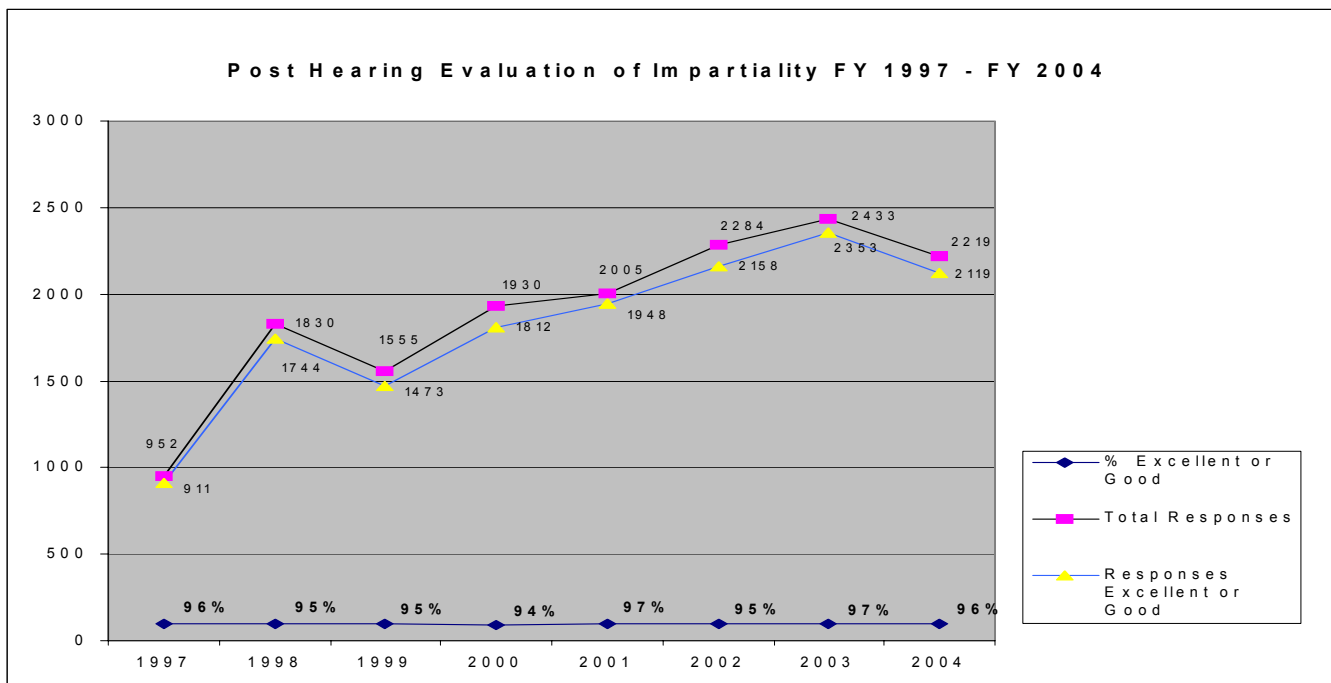
All Responses 1st Quarter



Questions:

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Attentiveness of ALJ 2. Effectiveness in explaining the hearing process 3. ALJ's use of clear and neutral language 4. Impartiality | <ol style="list-style-type: none"> 5. Effectiveness in dealing with the issues of the case 6. Sufficient space 7. Freedom from distractions 8. Questions responded to promptly and completely 9. Treated courteously |
|--|---|

The OAH takes its statutory mandate to provide fair, impartial and independent hearings seriously. Although part of the executive branch, together with its client agencies, the OAH maintains a conscious detachment from political issues and the missions of the other agencies. Procedures, rulings, and case assignment are at all times kept free of outside pressures to ensure that the parties can be assured that hearings are impartial and independent. The following graph illustrates how we have been perceived by parties in regard to our core function of impartiality.



This publication is available in alternative formats. The OAH is an equal opportunity employer.