

The Office of Administrative Hearings (OAH) is an independent unit within the executive branch of State government created to centralize and improve the administrative hearing process of Maryland government. Concurrently, it was expected that administrative adjudication would be independent of state agencies at a reduced cost to the citizens of the State. The mission of the OAH is to provide due process for any person affected by the action or proposed action of State agencies.

Chief Administrative Law Judge (CALJ), Thomas E. Dewberry, heads the OAH. A ten member State Advisory Council on Administrative Hearings (the Council) meets quarterly and advises the CALJ.

Section 9-1604(c) of the State Government Article requires the CALJ to submit an annual report to the Governor and, subject to Section 2-1312 of the State Government Article, to the General Assembly. Chapter 662 of the Laws of 1994 permits the OAH to prepare and submit its report in conjunction with the Council. In the interest of government efficiency and economy, the OAH and the Council submit their 2003 annual reports jointly.

I. EXECUTIVE SUMMARY OF THIS ANNUAL REPORT

The following is an outline summary of 2003 events and progress:

1. Meetings with new Agency Heads
2. Legislation affecting the OAH
3. Administrative Law Judge (ALJ) Salaries
4. National Perspectives
5. OAH's Managing for Results (MFR)
6. Expansion of mediation programs and continued development and refinement of mediation techniques
7. Financial Impact of OAH's Fiscal 2003 and Appropriated Fiscal 2004 Budget
8. Diversity
9. Efforts to Increase Public Awareness

II. DETAIL OF 2003 EVENTS AND PROGRESS

1. Meetings with new Agency Heads

Chief Administrative Law Judge Thomas Dewberry and members of his management staff scheduled meetings with members of the Governor's new Cabinet as follows: Secretary James C. DiPaula of the Department of Budget & Management; Secretary Nelson J. Sabatini, Department of Health & Mental Hygiene; Secretary James Fielder, Department of Labor, Licensing & Regulation; Secretary C. Ronald Franks, Department of Natural Resources; Secretary Christopher J. McCabe, Department of Human Resources; Secretary Robert Flanagan, Department of Transportation; Secretary Mary Ann Saar, Department of Public Safety and Correctional Services; Deputy Secretary for Administration Daniel O'Connor, Maryland State Police; Acting Secretary Kendl Philbrick, Department of the Environment; Assistant Secretary Nelson Reichart, Department of General Services; and Executive Director Thomas K. Lee, Retirement & Pension Systems.

CALJ Dewberry initiated these meetings in order to meet all new agency heads and provide them with background information regarding the OAH and answer any questions that may arise. Chief Judge Dewberry informed the agency heads of the mediation services available and discussed the possibility of delegating final decision making authority for all cases to the OAH.

The Deputy Director for Management and Administration, Benjamin Rudo, confers at length with the Department of Budget & Management to review OAH's programs and financial requirements throughout the year.

2. Legislation Affecting the OAH

No legislation that passed during the 2003 Legislative Session significantly impacted OAH's caseload. However, there were two proposed bills that the OAH monitored throughout the Session: HB 791, Health Occupations-State Board of Physician Quality Assurance – Sunset Extension and Program Evaluation, and SB 500, Department of Health & Mental Hygiene-State Board of Physicians. Both of these bills were Board of Physician Quality Assurance (BPQA) Sunset Extension provisions, however, there was a provision included in the bills that provided for a 3 member (or more) subcommittee of the Board to hear contested cases instead of sending them to the OAH. OAH provided testimony and attended work group meetings for the bills. Ultimately, the bills did not pass.

The OAH has consistently opposed any legislation that would provide a board with the option of delegating contested case hearings to a small number or subset of

board members. The boards are subject to Title 9, §§ 9-1601 through 9-1607.1 of the State Government Article and the contested case provisions of the Administrative Procedure Act (APA). Under § 10-205 of the APA, a board, commission or agency head authorized to conduct a contested case hearing may either conduct the hearing or delegate its hearing authority to the OAH. The OAH was created by the Legislature in 1990 in response to the public perception that an agency cannot fairly decide appeals of actions it has taken. The Legislature determined that an independent body of administrative law judges are better suited to make evidentiary rulings, interpret the law and apply the law to evidence. As a result, an entire board or commission may only hear a case itself or delegate hearing authority to the OAH. In 1993, this position was adopted by the legislature with the re-enactment of the APA. Nearly all boards with any volume of cases delegate their hearings to the OAH. Therefore, we believe that any legislative proposal, as stated above, is unnecessary, and inconsistent with the APA and current administrative practice.

3. Administrative Law Judge (ALJ) Salaries

CALJ Dewberry considers the increase in ALJ salaries a top priority and has continued to work in 2003 to increase salaries. The low starting salary could have a significant impact on OAH in the upcoming year in that ten ALJs have applied for ALJ positions with the newly created District of Columbia Office of Administrative Hearings ("D.C.OAH"). The ALJ starting salary at the D.C. OAH will be approximately \$80,000, which is approximately \$20,000 higher than Maryland's OAH ALJ starting salary. In addition, two ALJs recently accepted positions at other Maryland state agencies. One of those ALJs will be compensated at a rate of \$23,000 higher than she was being paid at the OAH.

The Chief Administrative Law Judge at the D.C. OAH has advised CALJ Dewberry that the Maryland ALJ applicants will be at the top of the list for hiring in D.C. He has also agreed that he would phase-in new hires so that Maryland does not lose a large number of ALJs at one time.

If OAH were to lose even four ALJs at one time it would have a serious impact on the operation of the agency and its ability to accomplish its mission. CALJ Dewberry has kept the Secretary of the Department of Budget & Management apprised of this problem and will continue to keep him updated.

4. National Perspectives

At the time of the creation of the OAH, Maryland was the twelfth state to have a centralized office for handling administrative appeals and hearings. The central panel concept has now been incorporated to greater and lesser degrees in 28 jurisdictions, the most recent being Washington, D.C. Maryland's OAH is among the largest central

panels in the country with the most jurisdiction. When fully staffed, it employs over 60 ALJs, including the CALJ and the Directors of Operations and Quality Assurance and their respective deputies. In calendar year 2003, OAH received 61,318 cases.

Over the years, States contemplating the establishment of a central panel have contacted Maryland for information, statistics, and guidance. In addition, once established, central panel states continue to seek advice and guidance from the OAH.

CALJ Dewberry and ALJs Burch, Bennett and Brooks attended the Central Panel Directors' Conference in Georgia in September. CALJ Dewberry participated in a panel with other Central Panel Directors entitled "Measurement of ALJ and Agency Performance". CALJ Dewberry shared with other Central Panel Directors Maryland's experience with the development of an ALJ evaluation instrument and the on-going evaluation of ALJs on a semi-annual basis in conformance with the Maryland PEP process. This Conference is extremely worthwhile in that Central Panel Directors are provided with a forum in which to exchange ideas, discuss similar problems, and gain assistance from other central panel states.

The National Association of Administrative Law Judge's (NAALJ) Annual Conference was held in Kissimmee, Florida in October and CALJ Dewberry and ALJs Louis Hurwitz, Noreen Lynch, James Murray, A. Michael Nolan, and John Zell attended the Conference. CALJ Dewberry was a presenter at the Conference and gave a report on Central Panels. ALJ Nolan is a member of the NAALJ Board of Governors. In addition, many of OAH's ALJs serve on various NAALJ Committees.

The Maryland OAH would not be the national model it is today without the vigorous support of Maryland's executive, legislative and judicial branches of government.

Locally, CALJ Dewberry attended the Maryland State Bar Association's Annual Meeting in Ocean City, Maryland on June 13, 2003. ALJ Neile Friedman participated in an administrative law panel presentation for the Administrative Law Section entitled "10 Best State Administrative Law Opinions of All Times". The Honorable John C. Eldridge, Court of Appeals of Maryland, and Carmen Shepard, Esquire (former Deputy Attorney General with the Maryland Office of the Attorney General) were also on the panel. ALJ Judith Finn Plymyer, Past Chair of the Administrative Law Section, and ALJ Yvette Diamond, Administrative Law Section Council member, were also in attendance. CALJ Dewberry attends quarterly meetings of the Section Council.

OAH's ALJs are members and officers of The Maryland and District of Columbia Association of Administrative Adjudicators ("MDC"), an affiliate organization of NAALJ. ALJ A. Michael Nolan serves as President of MDC. ALJs also participate in local bar

associations and make presentations to these associations and numerous other community-based organizations.

5. Managing For Results

The OAH strives to provide an efficient and high quality administrative hearing process to the citizens of Maryland and views the MFR plan as a valuable tool to assess its success in achieving that goal. It appreciates the State's MFR program and considers it an important mechanism by which to measure quality and strive for improvements over a period of time.

OAH worked closely with Darrin Aycock, Budget Analyst, DBM, to track the progress of its MFR plan.

OAH also continued its use of a customer survey, previously developed under the guidance of Ron Lippincott, the State's MFR consultant. This customer survey is sent to all parties, who have appeared before OAH during a selected month, on a quarterly basis.

6. Mediation/Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) includes a number of procedures designed to simplify and expedite the resolution of controversies without the need for a hearing or trial. ADR generally refers to any procedure, which utilizes the services of a neutral party to assist in reaching an agreement, thus avoiding the expense, delay, and uncertainty of litigation. ADR provides a forum for the parties to work towards a voluntary, consensual agreement, as opposed to having a judge or other authority decide the outcome of the case. ADR includes mediation and settlement conferences, which the OAH utilizes frequently. Mediation is particularly desirable because it encourages and improves communication between the parties.

OAH continues to expand ADR services available to parties with pending administrative hearings. OAH is working with the Mediation and Conflict Resolution Office (MACRO) to promote the use of ADR at OAH. The OAH was fortunate again this year to receive a grant from MACRO to provide a 40-hour course in mediation. Participants included OAH personnel and personnel from other State agencies, including numerous Assistant Attorneys General, who appear before the OAH at hearings. We were pleased to welcome the First Lady to the mediation training. First Lady Kendel S. Ehrlich addressed the training participants, offered her support and encouraged them to use Alternative Dispute Resolution. Lorig Charkoudian, Executive Director, Community Mediation Program taught the course. Each person who completed the course received a certificate acknowledging that he or she "has successfully completed a minimum of 40 hours of mediation training including areas specified in Maryland Rule 17-106." The

training was very successful, and OAH plans to offer future courses in mediation for its professional employees and other State employees who may also benefit from the skills involved.

OAH's mediation program for Special Education hearings is a prime example of the benefits of the mediation process. OAH settled approximately 62% of the Special Education cases mediated in 2003. Also, OAH settled approximately 66% of the Boat Excise Tax cases scheduled for a formal settlement conference. Overall in 2003, OAH settled approximately 60% of all cases scheduled for ADR proceedings.

By providing training to other state agencies, OAH will be better equipped to resolve disputes at the agency level, or will be more inclined to request mediation in cases where an appeal has been filed with the OAH.

Mediation Pilot Project with the District Court of Maryland

OAH is collaborating with the District Court for Baltimore County to provide mediation in the full range of civil matters. The District Court will refer cases where a trial is expected to last ½ day or longer and is, therefore, burdensome to the docket. Mediation will take place at OAH one day per month with a maximum of four cases per day. Participation by the litigants is voluntary. OAH has initially identified four ALJs to mediate these cases. The ALJs identified possess strong mediation skills and knowledge about District Court practice. OAH considers mediation to be one of the key devices for easing the seriously overburdened Court system and for the prompt and effective disposition of executive agency/citizen disputes.

7. Financial Impact of OAH's Fiscal 2003 and Appropriated Fiscal 2004 Budget

OAH's appropriated budget for FY 2004 is \$10,751,547 covering direct and overhead costs, and including rent and administrative staff. The OAH is funded through the transfer of funds from the agencies for which hearings are held. An allocation of costs is prepared each year based on caseload and the time required to adjudicate each type of case. The budgets for the agencies for which OAH holds hearings include an appropriation for "hearings" based on this allocation. On July 1 of every fiscal year, each agency transfers the appropriated funds to OAH. See Attachments A & B for charts showing the FY 2004 allocation by agency.

8. Diversity

The Joint Chairmen's "Report – Operating Budget," April 2002 notes that the General Assembly is concerned that the OAH workforce does not fairly represent the

minority population of the State. The following language was placed on page 39 of the JCR:

Further provided that the Office of Administrative Hearings (OAH) shall provide a report to the budget committees by July 1, 2002, detailing what actions OAH will take to increase the diversity of its workforce, particularly among the Administrative Law Judge positions. This plan shall include:

(1) Strategy and goals to increase workforce diversity; (2) corresponding strategies that OAH will implement to achieve the identified Strategies and goals; (3) criteria for successful implementation of identified strategies; and (4) deadlines for the completion of each Criteria to be implemented. The budget committee shall have 45 days to review and comment on the report from the date of its receipt.

OAH requested a one month extension and submitted its report to the JCR on August 1, 2002. The Report includes five Goals with coordinating strategies and criteria with deadlines for completion:

- Goal 1 To advertise and interview to attract minorities
- Goal 2 To increase public awareness in the minority community about the mission of the OAH and its impact on Maryland's businesses and citizens
- Goal 3 To train and mentor ALJs
- Goal 4 To raise OAH salary structure sufficient to attract and retain a diverse cadre of ALJs
- Goal 5 To hire legal staff, commensurate with available hiring opportunities, such that the ranks of the legal staff at OAH move significantly closer to reflecting the diversity of the population of Maryland

In September 2003, the Department of Budget & Management granted the OAH exemptions to fill two vacant ALJ positions. OAH adhered to the criterion set forth in the August 2002 "Report on Increasing the Diversity of Its Workforce". Further, the Hiring Committee, comprised of five OAH employees, namely, the Director of Operations, Director of Quality Assurance, Chief Clerk, or their designee(s) and two ALJs selected by the CALJ that included a racial minority and a recent hire, reviewed 130 resumes and participated in 44 interviews. Because of a recent ALJ resignation, three new ALJs were hired and two of the three positions were filled by minority candidates.

9. Increase Public Awareness

In 2003, CALJ Dewberry continued to work to promote the OAH as follows:

- In 2002, CALJ Dewberry coordinated public awareness efforts with a subcommittee of the State Advisory Council on Administrative Hearings. The subcommittee members were: Delegate Carol S. Petzold; Dr. Nancy Grasmick; and Susan Dishler Shubin. The subcommittee developed recommendations for a Marketing Plan “to support increased ALJ salaries and a better understanding of OAH and its processes and recommended to target: 1. The public; 2. Legislators; and 3. State agency heads”. As a result, CALJ Dewberry scheduled meetings with all agency heads (previously discussed). Also, welcome letters went to all legislators and invitations were sent to certain committee chairs to come to OAH for site visits. On January 16, 2003, members of the House Judiciary Committee visited the OAH. Committee members received: presentations from CALJ Dewberry, members of management staff and ALJs; lunch; and a tour of the building. The site visit went very well and CALJ Dewberry received positive feedback from the Chair, Delegate Joseph Vallario, and members of the Committee.
- On April 23, CALJ Dewberry conducted two five-minute interviews with Donald Fry, President of the Greater Baltimore Committee, for Comcast Cablevision. The interviews aired in May throughout Anne Arundel, Baltimore, Harford, and Howard Counties as well as Baltimore City.
- In addition, ALJs regularly make presentations about hearings and alternative dispute resolution to other State agencies and private organizations. Staff participates in approximately 1 or 2 public speaking engagements per month on diverse subjects. In 2003, for instance, ALJs addressed forensic psychiatrists and a law school class about commitment hearings, talked about special education hearings to educators and school administrators, and described drunk driving hearings at a MADD meeting. The OAH Speakers Bureau is comprised of ALJs who have volunteered to do public speaking about contested case hearings and ADR. OAH’s Advisory Council supports the Speakers Bureau. The Speakers Bureau has developed a brochure that will be used to help advertise the program.
- ALJs increase public awareness of the office in other ways, such as presiding at mock trial competitions, attending conferences, presiding at the Baltimore City District Court’s Teen Court program, and participating in various professional associations.

III. LEGISLATIVE HISTORY AND BACKGROUND

The OAH was created by Chapter 788 (SB 658) of the Laws of 1989, codified in State Government Article, Title 9, Subtitle 16 of the Annotated Code of Maryland. Chapter 788 incorporated the recommendations of the Governor's Task Force on Administrative Hearing Officers.

Noting the concerns of the business community, the public, and members of the bar, the Governor charged the Task Force with examining the then-current administrative hearing system and recommending needed changes. The Task Force issued a final report strongly endorsing the creation of a centralized administrative hearing process and identifying many problems with the non-centralized system. Hearing officers lacked adequate training opportunities, suffered from poor salaries, often failed to write decisions that would withstand judicial scrutiny, were supervised by the agencies for which they issued decisions, and were not subject to uniform procedures or codes of responsibility and ethics.

Following enactment of the legislation, staff from agencies as diverse as the Departments of Health and Mental Hygiene, Licensing & Regulation, and Environment were consolidated into a central office. ALJs were cross-trained to handle a wide variety of cases, and projected operational efficiencies began to be realized. Uniform Rules of Procedure were promulgated in 1991 and the Code of Ethics modeled on the Judicial Code of Ethics was adopted.

In late 1991, the Commission to Revise the Administrative Procedure Act (APA) was appointed to study and update Maryland's APA to reflect the creation of the OAH. The Commission included CALJ Hardwicke, two Cabinet Secretaries, and representatives of the judiciary, business community, labor unions, Maryland State Bar Association, and the Attorney General's Office. The Commission's recommended legislation, Chapter 59 of the Laws of 1993, became effective June 1, 1993. In 1994, revisions to the Office's Rules of Procedure, COMAR 28.02.01, were adopted incorporating the revisions to the APA.

IV. MISCELLANEOUS ADDITIONAL 2003 ACTIVITIES

A. Administration

1. Personnel

The CALJ of the OAH is appointed by the Governor for a six-year term. CALJ Dewberry was appointed for a six-year term on May 22, 2002. Executive ALJs serve as the Directors of Operations and Quality Assurance.

OAH began 2003 with 129 authorized positions, of which 124 were filled. Sixty-two of the positions are for ALJs who are appointed by the CALJ, fifty-seven of the ALJ positions were filled. Of the 124 OAH employees, 27% are African-American and 70% are women. Of the ALJs, 11% are African-American and 66% are women. As previously mentioned, OAH is committed to maintaining a diverse and qualified workforce. To that end, OAH strives to upgrade salaries as appropriate and to offer a work environment that is both professionally challenging and satisfying.

Current qualifications require that ALJs be bar-admitted attorneys with a minimum of 5 years of experience. The ALJs may be removed for cause and are considered special appointees within the professional service of the State Personnel Management System. Judge salaries range from \$55,804 to \$82,826, with the average being \$70,416. These salary levels were effective as of July 2002.

OAH's Clerk's Office had several positions become vacant during 2003. When the hiring freeze was implemented, a total of three vacancies existed in the Clerk's Office. Exceptions were filed with DBM for all three positions. Only one of the exceptions requested was granted. The vacant positions have been abolished.

2. Facilities

OAH's headquarters in Hunt Valley is accessible from I-83 North and provides ample parking. There is a light rail station within walking distance of the building and bus service makes the building accessible via public transportation.

The Administrative Law Building houses 23 hearing rooms, two attorney-client meeting rooms, a clerk's office, ample public waiting areas, a law library which is accessible to the public during normal business hours, as well as offices and training rooms for OAH staff.

In addition to the hearings held at its headquarters location, the ALJs travel throughout the State to conduct hearings in all counties. OAH operates satellite offices in Cumberland and Salisbury and has dedicated hearing space in Montgomery County.

3. Technology

OAH continues to update its Website. Citizens accessing OAH's Website are provided with:

- A. sample decisions
- B. general information about our hearings
- C. information about each agency case type that is heard by the OAH
- D. directions to hearings

- E. phone numbers for OAH contacts (i.e. postponement clerks, MVA docket specialists, etc.)
- F. e-mail address for comments/suggestions
- G. business hours and holiday schedule
- H. information regarding employment opportunities
- I. forms and information for purchasing copies of audio and video hearings
- J. the inclement weather policy
- K. OAH's organizational chart
- L. subpoena request forms
- M. Public Information Act request form
- N. list of processing fees (filing cases, subpoenas, copying audio and video hearings, copies or original transcripts, etc.)
- O. information concerning how to obtain copies of decisions
- P. Hearing Notices
- Q. information concerning how to request a postponement

OAH believes that the many improvements to the Website will provide citizens with substantial information about the agency and answers to questions about the hearing process.

During Fiscal Year 2003, OAH implemented a new Windows-based management system. The system provides for easier data entry and quicker retrieval of case related data.

B. Operations

The OAH conducts fair and timely hearings in contested cases for more than 30 State agencies for over 200 different programs, with over 500 hearing types. Except for entities exempted by statute, a Board, Commission or agency head must hear a contested case personally or must delegate authority to hear the case to the OAH or, with the permission of the Chief Administrative Law Judge, a person not employed by OAH. Md. Code. Ann., State Gov't. § 10-205 (1999 & Supp. 2003).

The OAH received 61,318 new cases in CY 2003. This was a significant increase from the 56,311 cases received in CY 2002. The OAH has continued its efforts to reduce the number of hearings by encouraging the parties to engage in settlement conferences and mediations. Those case resolution mechanisms have been most successful. Caseload statistics for CY 2003 are included in Attachment C.

1. Statistics for Special Education Hearings and Mediations

In CY 2003, OAH conducted an average of nine special education due process hearings per month resulting in 108 written special education decisions. There were,

however, 461 hearing requests received and the majority of those were scheduled for hearings. Most of those hearing requests were either withdrawn or the case settled prior to the hearing date.

It is noteworthy that 451 special education mediation requests were made in CY 2003, which resulted in an average of 38 mediations being scheduled each month. Of those 451 mediation requests, 318 were actually conducted and 198 settled resulting in a 62% mediation rate.

2. Satellite Offices and Outlying Hearing Locations

Although the Administrative Law Building in Hunt Valley is the headquarters of the OAH, the ALJs conduct less than 40% of the OAH's hearings at this location. The balance of the hearings are held at various locations used by the OAH around the State, including private hospitals and nursing homes. Other hearings are held in government facilities such as courthouses and agency offices. In addition to those facilities, the OAH has continued to lease hearing space at Wheaton Plaza in Montgomery County. The space continues to receive nearly maximum use.

The OAH also has an arrangement with the Unemployment Insurance Hearing Unit of the Department of Labor, Licensing and Regulation with regard to sharing hearing space at various locations throughout the State. Currently the OAH shares hearing space with the Unemployment Insurance office in Hunt Valley and Cumberland.

The OAH also maintains satellite offices in Cumberland and Salisbury. Two ALJs are assigned to the Salisbury office. These ALJs also conduct hearings at the Hunt Valley headquarters. Both of the OAH's satellite offices are fully integrated with the Hunt Valley OAH headquarters through the OAH's network. A team leader assigned to Hunt Valley provides oversight and assistance for the satellite offices.

3. Video-Conferencing

All ALJs are regularly assigned to video dockets. Video conferencing equipment is located in seven correctional institutions across the State of Maryland. Personnel and Inmate Grievance hearings are conducted via video conferencing. The OAH's use of video conferencing, however, is limited because it has only one set of video conferencing hardware. It is also noteworthy that the OAH's equipment is quite antiquated and it is likely that when repairs are needed the parts will no longer be available.

4. Teleworking

In 1999, Governor Glendening signed legislation requiring the State to re-establish a telecommuting program for State employees. The program, now called "teleworking" allows certain designated State employees to work from home or alternate work sites. The program set a mandate that 10% of an agency's eligible employee population are allowed to telework.

The OAH implemented the State's Telework Program. Each OAH teleworker must sign both an Agency Telework Agreement and an OAH Internal Telework Policy Agreement. ALJs are then assigned to telework from one to four days per month. Assignments are made on a rotating basis depending on the ALJ's workload and availability.

In CY 2003, 38 ALJs and a Deputy Clerk of Assignment executed the Telework Agreement. The attached chart (Attachment D) reflects the number of the OAH's employees who teleworked in CY 2003. The ALJs and the Deputy Clerk collectively teleworked for 229 days.

In addition to the OAH's telework initiative, the ALJ staff has been encouraged to establish remote access to the OAH either through Citrix or the internet. They may do so either by the use of their assigned OAH laptop computers or through their home computers. At this juncture 51 of 60 ALJs have remote access to the OAH. As a result, those ALJs are eligible to telework and/or work-at-home under the OAH's policies regulating both of those programs.

In CY 2003, ALJs worked at home before and/or after traveling to their dockets on 1168 days for approximately 3335 hours. During their initial six-month training period, new ALJs are encouraged to spend as much time as possible working at the OAH headquarters and are not eligible to telework. They are, however, eligible to work at home under the OAH's work-at-home policy. Of course, they must either choose to use a laptop provided by the OAH and/or have a personal computer at home, which is connected to the Citrix system and/or the internet, in order to access the OAH's network.

C. Quality Assurance ("QA")

QA continued to coordinate and refine the evaluation process, as required by the Performance, Planning & Evaluation Program (PEP). The ALJ evaluation was overhauled in response to the agency's needs and ALJ comments and suggestions. QA and Operations evaluate each ALJ every six months, as required by PEP. The evaluation is useful for identifying ALJs who need additional training and support.

QA is primarily responsible for hiring and training new ALJs. In 2003, in conjunction with the newly formed hiring committee, QA hired three new ALJs, Latonya Dargan, Harriett Helfand and Veronica Jones. The three new judges are in the early stages of OAH's training program. They are being trained using a concentrated exposure to each high volume substantive area in conjunction with a mentoring system with an experienced ALJ.

QA began the year 2003 with one staff attorney, two paralegals and two full time librarians. During the year, one of the librarians went to part-time status. The QA staff provides assistance with legal research and writing as well as the preparation of legal memoranda for the entire ALJ staff. Other duties include providing mediation services, assisting with developing and implementing ALJ training, and redacting confidential decisions which are available for distribution to the public upon request.

QA participates in job fairs at law schools and colleges offering legal and paralegal programs in order to attract volunteer student interns for the OAH. QA had five interns during the summer of 2003. QA continues to seek volunteers as a method to assist the ALJ staff and to provide greater exposure of the OAH to the legal community.

QA coordinates the publication of OAH decisions in The Daily Record. QA selects decisions and prepares the head notes for publication. In 2003, 33 OAH head notes addressing a variety of subject matter areas were published in The Daily Record.

OAH's computer technology has enabled the ALJs to share their work, including decisions, e-mail each other and outside parties, utilize centralized CD ROM research tools, and use on-line research products. During the course of the year, QA provided continuing training, both in-house and by LexisNexus representatives, in the use of research technology. The efficient and proficient use of these resources continues to increase as OAH staff becomes more comfortable with the technology.

QA maintains decision boilerplates for every kind of case it hears. Each boilerplate contains the essential information that should be included in that decision, such as the procedural regulations that apply. Boilerplates provide the ALJs with the basic framework for a decision. QA is responsible for updating and revising the boilerplates. Keeping the boilerplates current is a time consuming and arduous process but well worth the effort. With the advent of computer networking at OAH, QA has been able to revise and update the boilerplate instantaneously to the benefit of all OAH staff.

QA also maintains and updates the Time Frames matrix, which states the statutory or regulatory due date for every case type. Because due dates vary greatly, the matrix is critical. The matrix is available on OAH's network for easy reference.

QA maintains, revises and updates Bench Manuals and Case Digests in various subject areas. These materials are available on the network and assist ALJs in staying current in the law.

1. Library

The OAH library is open to the public. OAH's librarian and assistant librarian serve both the OAH and the public.

Every written decision issued since 1999 is available on OAH's network and can be researched electronically; hard copies can be researched manually. Decisions issued prior to 1999 are searchable manually and on an outdated but functional database, called Premise, which is available on a computer located in the library.

OAH librarians scan all new law journals and legal research material available through the internet. Through e-mail, they notify judges of interesting articles and cases that pertain to the OAH. They provide research assistance to all OAH employees, as well as to the public. The librarians respond to more than ten telephone inquiries each day from the public relating to OAH's decisions and other information available in our library.

QA also oversees collection, development, and expansion of services provided by the library to OAH staff, State agencies, the bar and citizens. OAH has contracted with LexisNexus for on-line access, which includes an electronically searchable COMAR database. In addition to the on-line LexisNexus service, the CD ROM technology, which is also available through the computer network, offers access to the Maryland Annotated Code, COMAR, Maryland cases and Attorney General's Opinions, and the Code of Federal Regulations. QA continues to expand the electronic library as well as maintaining and adding to printed material.

2. Continuing Judicial Education

QA offers ongoing training for ALJs in procedural and substantive issues related to all cases within OAH's jurisdiction. Monthly training sessions keep ALJs abreast of reforms, changes in agency rules and regulations, case law, etc. Attachment E is a list of the monthly training sessions conducted during 2003.

In addition to the monthly training sessions, a grant from MSDE allowed the OAH to send five judges to the Annual Special Education Conference in Tampa in the Spring.

V. Conclusions

OAH looks to 2004 as a year of opportunity. We are looking forward to continuing to work with Governor Robert Ehrlich, Jr. and his Administration and are always eager to assist in any way that is appropriate. We intend to remain in the forefront of administrative law and increase efforts to educate the public about the role of the OAH.

OAH will continue to work to accomplish all goals set forth in its August 1, 2002 "Report on Increasing the Diversity of the Office of Administrative Hearings' Workforce" and will continue to work with and seek the assistance of members of Maryland's minority community.

As previously mentioned, ADR provides a forum for the parties to work towards a voluntary and consensual agreement, as opposed to having a judge or other authority decide the outcome of a case. ADR allows the parties of a dispute to avoid the expense, delay, and uncertainty associated with a formal judicial hearing, while encouraging and improving communication between the parties. OAH will continue to offer and encourage mediations and settlement conferences to parties in administrative cases, assist the District Court with its mediation project and provide mediation training to employees in other State Agencies. The OAH wishes to acknowledge and thank MACRO for the funding that it has provided for OAH to train other State employees and enter into the mediation pilot project with the District Court.

In calendar year 2004, the OAH will continue to seek to improve the administrative hearing process in Maryland. The OAH is confident that that goal will be accomplished with the continued support of its dedicated employees, the Advisory Council and the community of OAH consumers.

JUDICIAL TRAINING SCHEDULE FOR 2003

January 10	February 14	March 14	April 11	May 9	June 13
<p>Mediation Skills: <i>Getting to Yes</i> Video Presenters: ALJs Georgia Brady and Eleanor Wilkinson</p> <p>MIA – Update Tom Welshko</p>	<p>Special Education: Least Restrictive Environment presenters: Ed Wulkan, Chief, Complaint Investigation /Due Process Branch, MSDE; Deborah Metzger, Program Manager, Infant and Toddlers Program/ Preschool Services, MSDE; Anne Thomas, Consultant, Program Administration Support and Staff Development Branch, MSDE; Sandi Marx, Monitoring/Program Improvement Specialist, Divisional and State Interagency Support Branch, MSDE; Selene Almazan, Esq., Maryland Coalition for Inclusive Education; Gail Viens, Esq., Office of Compliance, Prince George's County Public Schools</p> <p>Autism Waiver Hearings Brett Bierer,</p>	<p>What Can QA Do for You? Presenters: QA Staff</p> <p>Profile Protocol Presenter: QA Staff</p> <p>DOP Update: Whatever happened to <i>Delambo</i>? ALJs James Murray and Eleanor Wilkinson</p> <p>Technology Update Presenter: Katherine Rankin</p> <p>Can I Cite to an Unreported Decision? Dir. QA/ALJ Laurie Bennett</p>	<p>Patients Bill of Rights Hearings presenters: ALJs Guy Avery and Brian Zlotnick</p> <p>Maryland State Police – Inspection Stations Hearings presenters: ALJs Robert Barry and Alan Jacobson)</p> <p>Securities Hearings presenter: ALJ James Murray</p> <p>Higher Education Labor Relations Board Overivew presenters: ALJs Douglas Koteen and Georgia Brady</p> <p>DHR Hearings presenter: Arthur Novotny</p> <p>Advanced Computer Skills presenter Katherine Rankin</p>	<p>What is the Inmate Grievance? presenter: Marvin Robbins, Exec.Dir. IGO</p> <p>Legislation Update presenter: ALJ Wayne Brooks</p> <p>Board of Physician Qaulity Assurance presenter: Dir. QA/ALJ Laurie Bennett</p> <p>Health Risk Assessment Screening</p>	<p>Special Education presenters: ALJs Judith Jacobson, Marleen Miller, James Power, Denise Shaffer, Mary Shock</p> <p>topics include: No Child Left Behind, Idea Reauthorization: President's Freedom Initiative; Computer research; Section 504; Conducting a Due Process Hearing; FAPE; Compensatory Education; Student Refusal to Work High stakes testing; Emotional Disorders</p>

	<p>AAG – DHMH Nancy Peneles, Esq. Maryland Disability Law Center; Jane Wessely, Supervisor of Medicaid Waiver Programs, Department of Health and Mental Hygiene, Marjorie Shulbank, Section Chief, Maryland Infants and Toddlers Program/Pre- School Services Branch, MSDE; Rosemary King- Johnston, Section Chief, Program Evaluation and Compliance, Maryland Infants and Toddlers Program/Pre- School Services Branch, MSDE</p> <p>MVA Update: presenter: ALJ J. Bernie McClellan</p>				
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July 11	August 15	Sept. 12	October 10	November 21	December 12
<p>Ethics for ALJs presenters: ALJs Joan Gordon, Louis Hurwitz, Thomas Welshko, Douglas Koteen and Michael Wallace</p> <p>Child Abuse and Neglect Hearings presenter: ALJ Nancy Page</p> <p>What is MFR? And Why we have to do what we do? ALJ Lorraine Fraser and Dep. Dir. QA/ALJ J. Bernard McClellan</p> <p>Maryland Insurance Administrative Hearings Kathleen Birrane, Principal Counsel, Lisa Hall, Assistant Attorney General and Randolph Sergent, Deputy Counsel</p>	<p>Special Education: What makes a good IEP? Erin Leff Deputy Special Master United States District Court for The District of Maryland</p>	<p>Caselaw update: Hon. Glenn Harrell, Jr. Court of Appeals for Maryland</p>	<p>No training this month</p>	<p>Special Education presenter: Art Cernosia Esq.</p>	<p>Personnel Hearings presenters: Dir. QA/ALJ Laurie Bennett and ALJ Eleanor Wilkinson</p> <p>Forced Medication Hearings presenters: ALJ Judith Jacobson; Cathy Surace, Esq., Maryland Disability Law Center, Susan Steinberg, Esq., Mental Hygiene Adminis-tration, Jennie Bishop, Patients; Rights Advisor, DHMH Ria Rochvarg, Esq., Dr. Eric Roskes, Springfield Hospital Center Emily Hoffman, On Our Own</p>

May 13, 2004

TO: Kenneth Masters
Chief Legislative Officer
Governor's Legislative Office

Neil L. Bergsman, Executive Director
Office of Budget Analysis
Department of Budget & Management

FROM: Bernice Verner
Executive Assistant to the Chief Administrative Law Judge

RE: 2003 Annual Reports of the Office of Administrative Hearings
and the State Advisory Council on Administrative Hearings

Enclosed please find for your review the 2003 Annual Reports of the Office of Administrative Hearings and the State Advisory Council on Administrative Hearings.

These Reports are required to be submitted to the Governor and the Legislative Policy Committee under State Government Article §§ 9-1604 and 9-1610 of the Annotated Code of Maryland. We would like to submit the Reports as soon as possible.

Your prompt attention to these Reports is appreciated. Please do not hesitate to call with any questions. I can be reached at 410-229-4105 or bverner@oah.state.md.us

Thank you.

April , 2004

The Honorable Robert Ehrlich
Governor, State of Maryland
State House
Annapolis, Maryland 21401

RE: 2001 Joint Annual Reports of the Office of Administrative Hearings and the
State Advisory Council on Administrative Hearings

Dear Governor Glendening:

I am pleased to submit the 2001 Joint Annual Reports of the Office of Administrative Hearings (OAH) and the State Advisory Council on Administrative Hearings.

The enclosed Reports substantiate the continued success of the OAH and I trust that you will share my pride in the accomplishments of Maryland's OAH.

Very truly yours,

John W. Hardwicke

Enclosure

April 9, 2002

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H-107 State House
Annapolis, MD 21401-1991

The Honorable Casper R. Taylor, Jr.
Speaker of the House
H-101 State House
Annapolis, Maryland 21401-1991

RE: 2001 Joint Annual Reports of the Office of Administrative Hearings and the
State Advisory Council on Administrative Hearings

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Enclosure