

**D99A11**  
**Office of Administrative Hearings**

***Executive Summary***

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The Office of Administrative Hearings (OAH) is the State agency responsible for hearing and deciding contested cases involving State agencies.

***Operating Budget Data***

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(\$ in Thousands)

	<b><u>FY 18</u></b> <b><u>Actual</u></b>	<b><u>FY 19</u></b> <b><u>Working</u></b>	<b><u>FY 20</u></b> <b><u>Allowance</u></b>	<b><u>FY 19-20</u></b> <b><u>Change</u></b>	<b><u>% Change</u></b> <b><u>Prior Year</u></b>
Special Fund	\$30	\$52	\$52	\$0	
Adjustments	0	0	0	0	
<b>Adjusted Special Fund</b>	<b>\$30</b>	<b>\$52</b>	<b>\$52</b>	<b>\$0</b>	<b>0.0%</b>
Reimbursable Fund	15,441	15,356	15,895	539	3.5%
Adjustments	0	78	405	328	
<b>Adjusted Reimbursable Fund</b>	<b>\$15,441</b>	<b>\$15,434</b>	<b>\$16,300</b>	<b>\$867</b>	<b>5.6%</b>
<b>Adjusted Grand Total</b>	<b>\$15,471</b>	<b>\$15,486</b>	<b>\$16,353</b>	<b>\$867</b>	<b>5.6%</b>

Note: The fiscal 2019 appropriation includes deficiencies, a one-time \$500 bonus, and general salary increases. The fiscal 2020 allowance includes general salary increases.

- The fiscal 2020 allowance for OAH grows by 5.6%. This increase is attributable to statewide general salary increases in fiscal 2019 and 2020.

Note: Numbers may not sum to total due to rounding.

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## ***Personnel Data***

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	<b><u>FY 18</u></b> <b><u>Actual</u></b>	<b><u>FY 19</u></b> <b><u>Working</u></b>	<b><u>FY 20</u></b> <b><u>Allowance</u></b>	<b><u>FY 19-20</u></b> <b><u>Change</u></b>
Regular Positions	118.00	118.00	118.00	0.00
Contractual FTEs	<u>0.00</u>	<u>0.50</u>	<u>0.50</u>	<u>0.00</u>
<b>Total Personnel</b>	<b>118.00</b>	<b>118.50</b>	<b>118.50</b>	<b>0.00</b>

### ***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	3.52	2.98%
Positions and Percentage Vacant as of 12/31/18	6.00	5.08%

## ***Key Observations***

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- An uptick in cases in fiscal 2018 and additional reporting from OAH indicate that the agency is appropriately staffed despite a significant multi-year decline in caseloads.

### **Operating Budget Recommended Actions**

1. Concur with Governor's allowance.

**D99A11**  
**Office of Administrative Hearings**

***Operating Budget Analysis***

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**Program Description**

The Office of Administrative Hearings (OAH) holds hearings in contested cases involving State agencies. The office was created in 1989 to centralize the hearing functions in various units of State government. Most cases originate from the Motor Vehicle Administration (MVA); the Maryland Department of Health; the Department of Human Services; the Department of Housing and Community Development; and the Maryland State Department of Education. Funding primarily comes from those agencies that use OAH services. These agencies reimburse OAH based on the proportion of time spent on their cases. Additionally, homeowners who are subject to foreclosure may request mediation with an administrative law judge (ALJ).

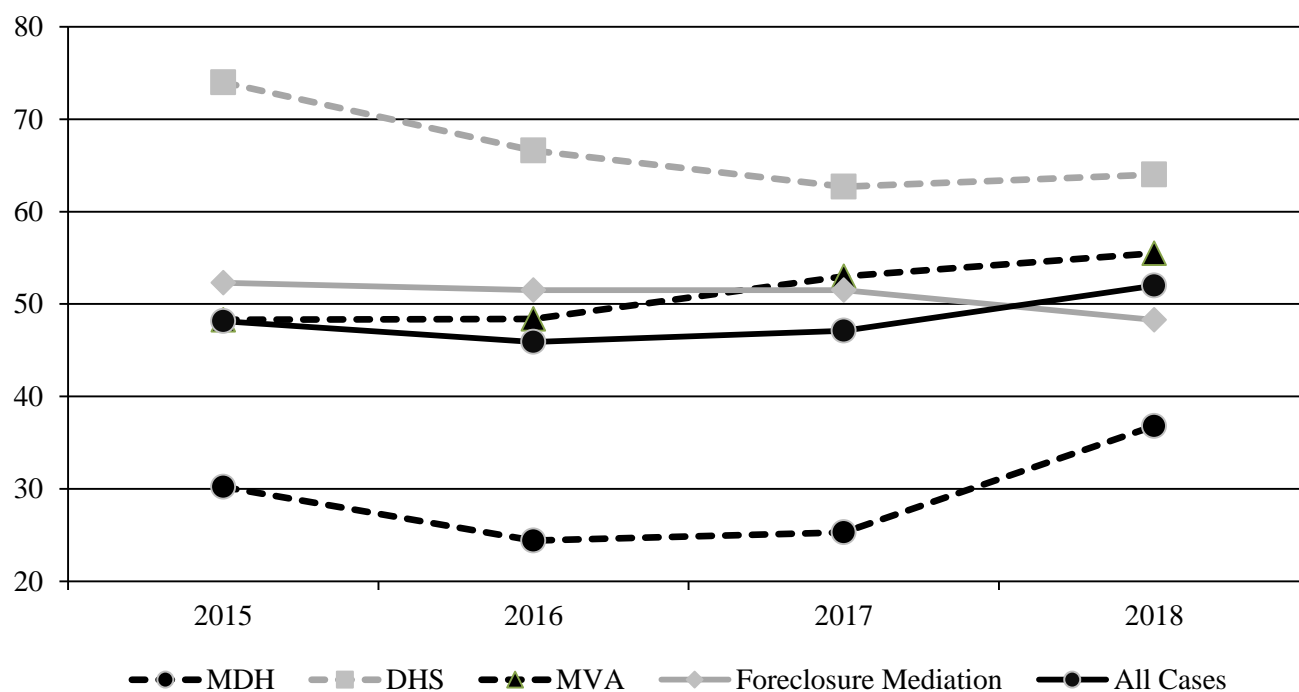
OAH decisions may be appealed to the circuit court. In certain cases, the OAH decision is advisory, and the originating agency may overrule or reject the OAH ruling. When an agency has rejected the OAH decision, recourse is also to the circuit court.

**Performance Analysis: Managing for Results**

**1. Average Time to Decision Increases for Second Year in a Row**

Performance goals for OAH center on efficiency and quality. Time to dispose of cases from filing is the standard measurement for efficiency. In fiscal 2018, OAH lost some ground for the second year in a row on the time to disposition across most dockets. Overall, average time to disposition rose from 47.1 days to 52.0 days, and the average time to disposition was the longest in more than five years. **Exhibit 1** provides a more detailed breakdown of the disposition time for major classes of cases going back to fiscal 2015. While it will be necessary to monitor this measure closely to ensure that there are not underlying issues that merit further attention, it is important to note that OAH still clears 99.5% of cases within its targets, which is consistent with recent history, and 52 days is still an impressive average turnaround time given the volume and variety of cases heard by ALJs.

**Exhibit 1**  
**Average Number of Days Between Receipt and Disposition of Selected Cases**  
**Fiscal 2015-2018**



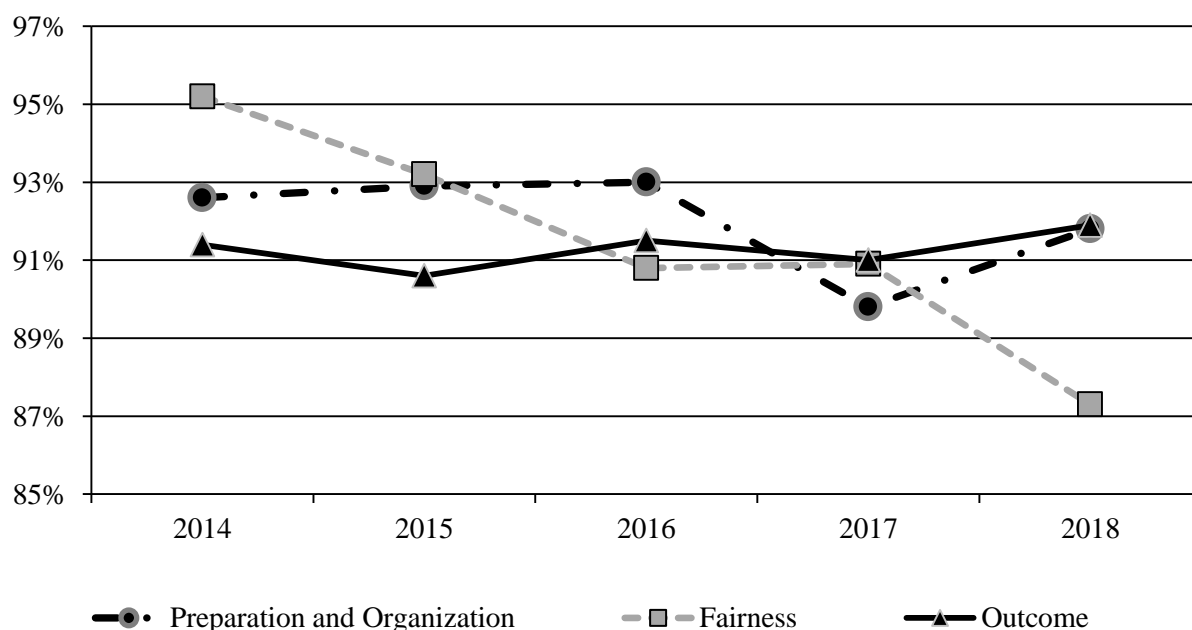
DHS: Department of Human Services  
MDH: Maryland Department of Health  
MVA: Motor Vehicle Administration

Source: Department of Budget and Management

## 2. Survey Respondents Less Satisfied with Fairness of Hearings

Quality is measured through the use of hearing participant surveys that quantify satisfaction with elements such as preparation, organization, and fairness of the proceedings. Participants are also surveyed on satisfaction with the outcome of the proceeding. As shown in **Exhibit 2**, the percentage of participants who rated these elements as satisfactory or excellent grew slightly for both the outcome of proceedings and the preparation and organization measures. However, the fairness measure continued to fall from its peak. In fiscal 2014, 95.2% of respondents reported that the fairness of their OAH hearing was satisfactory or excellent. In fiscal 2018, only 87.3% said the same, a decline of 7.9 percentage points. While that is still a highly positive response overall, the trend is concerning. **OAH should comment on why positive responses on the fairness of hearings are in decline.**

**Exhibit 2**  
**Participants Rating Hearing Elements as Satisfactory or Excellent**  
**Fiscal 2014-2018**



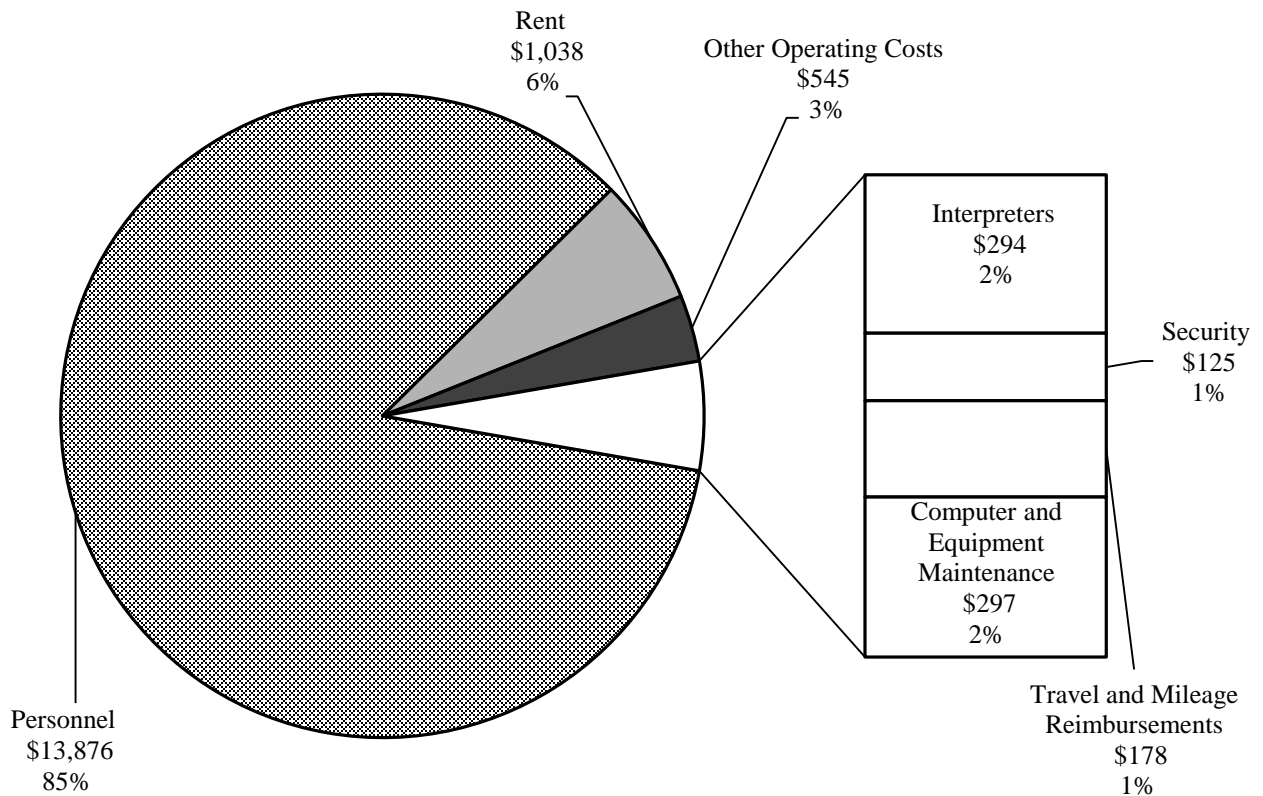
Source: Department of Budget and Management

## Fiscal 2020 Allowance

### Overview of Agency Spending

OAH is a personnel-driven agency with ALJs hearing cases and making decisions and clerks processing those cases as they move through the process. Therefore, as shown in **Exhibit 3**, a large majority of the agency's budget is devoted to personnel. There are two additional items of note that differentiate the OAH budget from those of other, similarly sized offices. OAH's mission requires staff to work regularly with a broad segment of the public and involves a consistent stream of visitors to OAH's hearing sites for cases. As a result, the agency's budget includes allocations for language interpreters (\$294,000) and security (\$125,000).

**Exhibit 3**  
**Key Components of Agency Spending**  
**Fiscal 2020**  
**(\$ in Thousands)**



Source: Department of Legislative Services

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**Proposed Budget Change**

As shown in **Exhibit 4**, the allowance for OAH grows by a total of \$866,633 (5.6%). The budget is almost entirely reimbursable funds collected via a service charge on State agencies that utilize OAH services.

**Exhibit 4**  
**Proposed Budget**  
**Office of Administrative Hearings**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b><u>Special</u> <u>Fund</u></b>	<b><u>Reimb.</u> <u>Fund</u></b>	<b><u>Total</u></b>
Fiscal 2018 Actual	\$30	\$15,441	\$15,471
Fiscal 2019 Working Appropriation	52	15,434	15,486
Fiscal 2020 Allowance	<u>52</u>	<u>16,300</u>	<u>16,353</u>
Fiscal 2019-2020 Amount Change	\$0	\$867	\$867
Fiscal 2019-2020 Percent Change		5.6%	5.6%

**Where It Goes:**

**Personnel Expenses**

3.0% general salary increase effective July 1, 2019 .....	\$350
2% general salary increase effective January 1, 2019 .....	217
Employee and retiree health insurance .....	195
Employer pension contribution .....	135
Annualize 0.5% general salary increase effective April 1, 2019.....	42
Turnover expectancy .....	-8
Other personnel changes.....	-30
Impact of deficiency to fund \$500 bonus on April 1, 2019 .....	-64

**Other Changes**

Department of Information Technology service charge .....	30
Software licenses and server maintenance contracts .....	29
Language interpretation service contract.....	14
Security Services contract .....	10
Decrease electricity allocation to reflect actual usage .....	-42
All other changes .....	-11

<b>Total</b>	<b>\$867</b>
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Note: Numbers may not sum to total due to rounding.

## **Personnel**

Nearly all of the growth in the fiscal 2020 budget allowance is due to statewide personnel adjustments. The three general salary increases on January 1, 2019; April 1, 2019; and July 1, 2019, collectively increase the fiscal 2020 appropriation by \$609,406, which is partially offset by the impact of the \$500 bonus on April 1, 2019, which is budgeted in fiscal 2019 (\$63,903). Adjustments to the contribution rates for employee and retiree health insurance and the employee pension increase by \$194,809 and \$134,800, respectively.



## ***Issues***

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### **1. Report on ALJ Workloads Indicates That the Current Staff Complement Is Justified**

In the 2018 *Joint Chairmen's Report*, the committees requested that OAH prepare a report on agency staffing based on a significant downward trend in the agency's caseload that began in fiscal 2015. While the Department of Legislative Services suggested that as many as 5 ALJs and 5 support staff positions could be reduced over time based on the average number of cases per year per ALJ, the report submitted by OAH in November 2018 has provided additional context and data that indicates that the case is not so clear.

OAH was able to provide two additional metrics that illustrate that the decline in cases has not been as dramatic when considered from an actual workload perspective. First, OAH reports that the amount of time that ALJs spend conducting dockets has only declined by one hour per year per ALJ since fiscal 2013. There are two principal reasons for this effect. First, most dockets are multi-case, so a decline in cases does not generally reduce the number of dockets that need to be held, especially considering the imperative to resolve cases expediently. Additionally, while the total caseload has declined, the cases that remain tend to be those that take more ALJ time to be heard and decided.

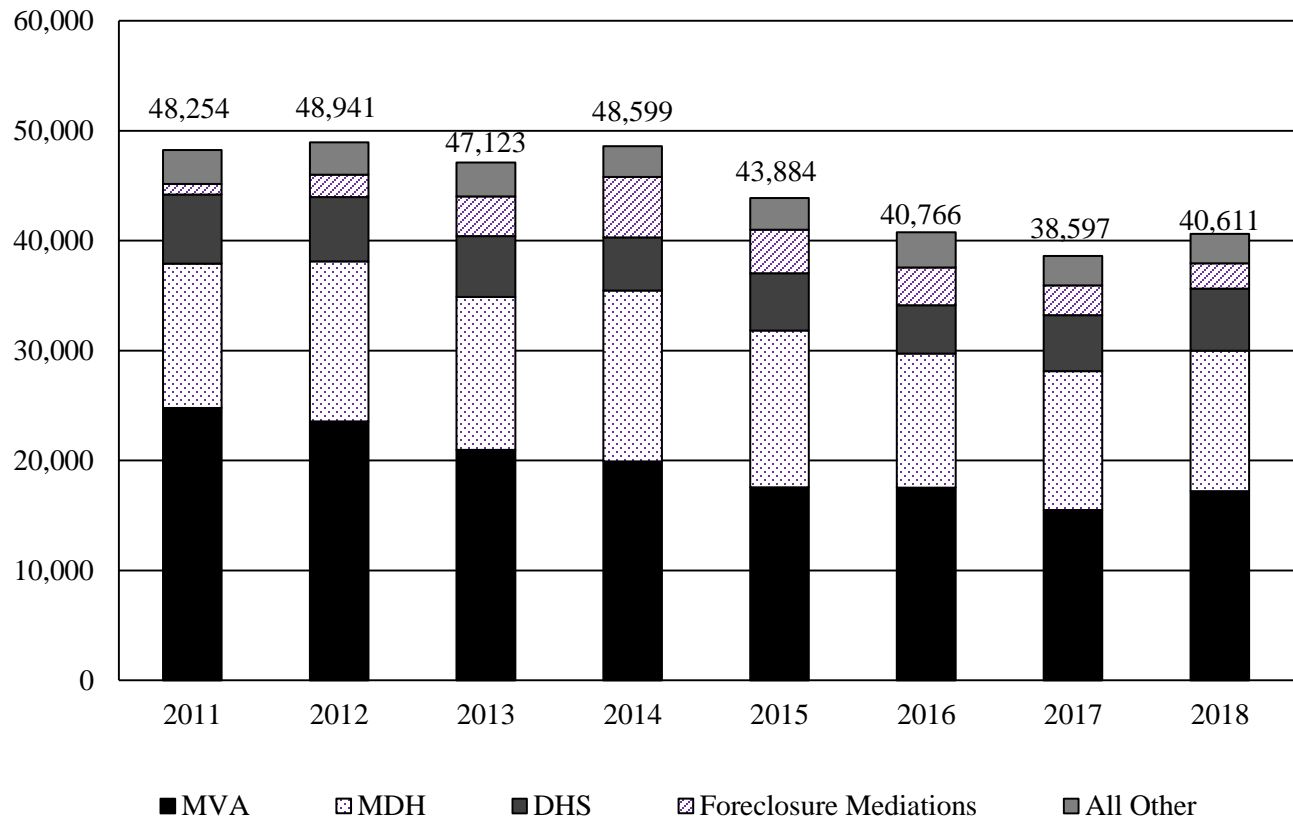
Second, OAH reported that, in fiscal 2014, the final year before the recent case decline, ALJs accumulated 6,359 hours of compensatory time, equal to about 3 full-time equivalents. That figure declined to 3,802 hours in fiscal 2017 and 4,408 in fiscal 2018. While this is not a perfect way to measure whether an agency is appropriately staffed because other timing factors can impact the amount of compensatory time earned by employees, it does imply that there has been a small decrease in overall workload but not enough to have a real impact on the present need for staff.

### **Caseloads Increased in Fiscal 2018 for the First Time in Five Years**

The other factor that points against the idea of reducing the agency's staff is that the total caseload increased in fiscal 2018. As shown in **Exhibit 5**, the total number of cases disposed increased by 2,014 cases (5.2%). All of the major case types identified in Exhibit 5 saw increases with the exception of foreclosure mediations, which have continued to decline along with the foreclosure rate in the State. The increase in the number of cases received was even more significant (10.8%). While there were still about 16.4% fewer cases in fiscal 2018 than in 2014, for the reasons identified above, the impact of that decrease on the agency is less significant.

It is also worth noting that OAH correctly anticipated that the fiscal 2017 decline in MVA cases would be short lived and was caused by timing of the implementation of Noah's Law (Chapter 512 of 2016), which significantly altered how the State handles driving under the influence cases and impacted both the number of driver's license revocation and ignition interlock program cases heard by OAH.

**Exhibit 5**  
**Cases Disposed by Major Type**  
**Fiscal 2011-2018**



DHS: Department of Human Services  
MDH: Maryland Department of Health  
MVA: Motor Vehicle Administration

Source: Department of Budget and Management

## ***Operating Budget Recommended Actions***

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1. Concur with Governor's allowance.

**Appendix 1**  
**Current and Prior Year Budgets**  
**Office of Administrative Hearings**  
**(\$ in Thousands)**

	<b><u>General</u></b> <b><u>Fund</u></b>	<b><u>Special</u></b> <b><u>Fund</u></b>	<b><u>Federal</u></b> <b><u>Fund</u></b>	<b><u>Reimb.</u></b> <b><u>Fund</u></b>	<b><u>Total</u></b>
<b>Fiscal 2018</b>					
Legislative Appropriation	\$0	\$52	\$0	\$15,447	\$15,499
Deficiency/Withdrawn Appropriation	0	0	0	0	0
Cost Containment	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Reversions and Cancellations	0	-22	0	-6	-28
<b>Actual</b>					
<b>Expenditures</b>	<b>\$0</b>	<b>\$30</b>	<b>\$0</b>	<b>\$15,441</b>	<b>\$15,471</b>
<b>Fiscal 2019</b>					
Legislative Appropriation	\$0	\$52	\$0	\$15,356	\$15,409
Budget Amendments	0	0	0	0	0
<b>Working</b>					
<b>Appropriation</b>	<b>\$0</b>	<b>\$52</b>	<b>\$0</b>	<b>\$15,356</b>	<b>\$15,409</b>

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. Numbers may not sum to total due to rounding.

## **Fiscal 2018**

The Office of Administrative Hearings finished fiscal 2018 \$28,012 below its legislative appropriation. This decrease is entirely attributable to the cancellation of unspent operating funds, including \$22,240 in special funds and \$5,772 in reimbursable funds.

## **Fiscal 2019**

To date, there have been no actions impacting the fiscal 2019 appropriation.

**Appendix 2**  
**Object/Fund Difference Report**  
**Office of Administrative Hearings**

<u>Object/Fund</u>	<u>FY 18 Actual</u>	<u>FY 19 Working Appropriation</u>	<u>FY 20 Allowance</u>	<u>FY 19 - FY 20 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	118.00	118.00	118.00	0.00	0%
02 Contractual	0.00	0.50	0.50	0.00	0%
<b>Total Positions</b>	<b>118.00</b>	<b>118.50</b>	<b>118.50</b>	<b>0.00</b>	<b>0%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 12,839,502	\$ 12,946,716	\$ 13,455,643	\$ 508,927	3.9%
02 Technical and Special Fees	47,960	19,481	22,197	2,716	13.9%
03 Communication	150,565	161,721	148,040	-13,681	-8.5%
04 Travel	171,207	175,000	178,300	3,300	1.9%
06 Fuel and Utilities	76,908	122,034	79,676	-42,358	-34.7%
07 Motor Vehicles	2,553	11,134	12,199	1,065	9.6%
08 Contractual Services	633,981	682,286	763,831	81,545	12.0%
09 Supplies and Materials	141,101	155,210	154,800	-410	-0.3%
10 Equipment – Replacement	246,922	42,068	42,068	0	0%
11 Equipment – Additional	8,023	40,000	38,000	-2,000	-5.0%
13 Fixed Charges	1,152,070	1,052,854	1,052,848	-6	0%
<b>Total Objects</b>	<b>\$ 15,470,792</b>	<b>\$ 15,408,504</b>	<b>\$ 15,947,602</b>	<b>\$ 539,098</b>	<b>3.5%</b>
<b>Funds</b>					
03 Special Fund	\$ 29,760	\$ 52,494	\$ 52,472	-\$ 22	0%
09 Reimbursable Fund	15,441,032	15,356,010	15,895,130	539,120	3.5%
<b>Total Funds</b>	<b>\$ 15,470,792</b>	<b>\$ 15,408,504</b>	<b>\$ 15,947,602</b>	<b>\$ 539,098</b>	<b>3.5%</b>

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. The fiscal 2020 allowance does not include general salary increases.

**Appendix 3  
Fiscal Summary  
Office of Administrative Hearings**

<b><u>Program/Unit</u></b>	<b><u>FY 18 Actual</u></b>	<b><u>FY 19 Wrk Approp</u></b>	<b><u>FY 20 Allowance</u></b>	<b><u>Change</u></b>	<b><u>FY 19 - FY 20 % Change</u></b>
01 General Administration	\$ 15,470,792	\$ 15,408,504	\$ 15,947,602	\$ 539,098	3.5%
<b>Total Expenditures</b>	<b>\$ 15,470,792</b>	<b>\$ 15,408,504</b>	<b>\$ 15,947,602</b>	<b>\$ 539,098</b>	<b>3.5%</b>
Special Fund	\$ 29,760	\$ 52,494	\$ 52,472	-\$ 22	0%
<b>Total Appropriations</b>	<b>\$ 29,760</b>	<b>\$ 52,494</b>	<b>\$ 52,472</b>	<b>-\$ 22</b>	<b>0%</b>
Reimbursable Fund	\$ 15,441,032	\$ 15,356,010	\$ 15,895,130	\$ 539,120	3.5%
<b>Total Funds</b>	<b>\$ 15,470,792</b>	<b>\$ 15,408,504</b>	<b>\$ 15,947,602</b>	<b>\$ 539,098</b>	<b>3.5%</b>

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. The fiscal 2020 allowance does not include general salary increases.