

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

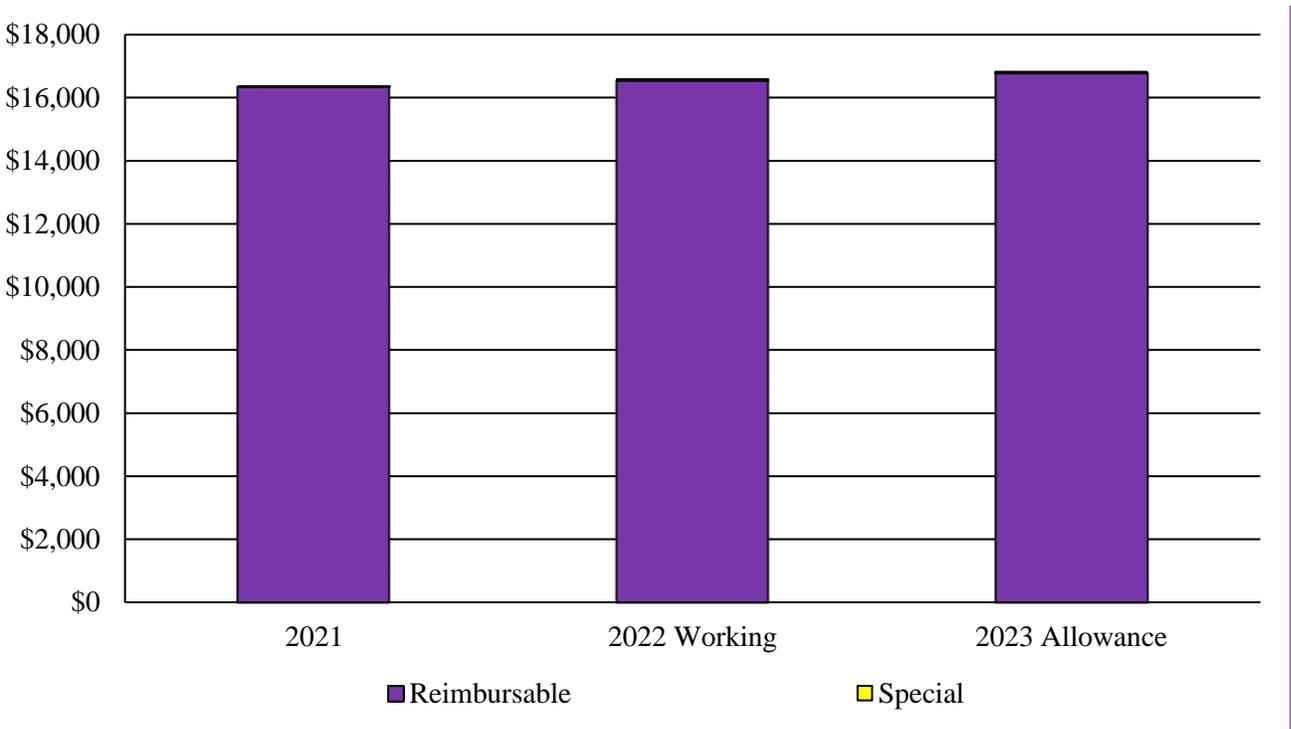
**Program Description**

The Office of Administrative Hearings (OAH) was established to provide an unbiased and objective forum for contested cases involving State agencies. As such, it is an independent unit of the Executive Branch and is one of the largest central panel agencies in the country. The office was created in 1989 to centralize the hearing functions in various units of State government. Its cases originate from approximately 30 agencies that reimburse OAH based on the proportion of time that it spends on their cases. Additionally, homeowners who are subject to foreclosure may request mediation with an administrative law judge (ALJ), and all OAH decisions are subject to judicial review in State or federal court as provided by law.

***Operating Budget Summary***

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**Fiscal 2023 Budget Increases \$225,830, or 1.4%, to \$16.8 Million**  
**(\$ in Thousands)**



Note: Numbers may not sum due to rounding. The fiscal 2022 working appropriation includes deficiencies. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

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## **Fiscal 2022**

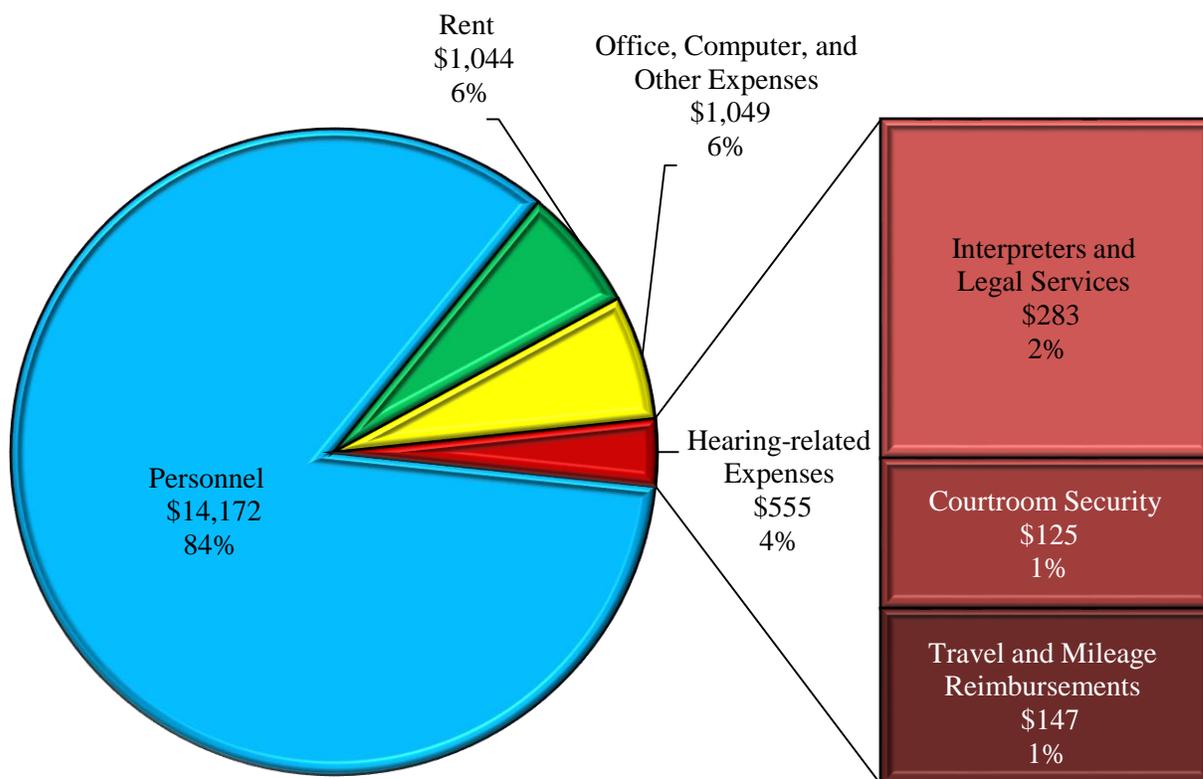
### **Proposed Deficiency**

OAH bills agencies for caseloads from earlier fiscal years. It billed the Department of Housing and Community Development (DHCD) for mortgage foreclosure mediations that took place in fiscal 2019. Due to the COVID-19 foreclosure moratorium and other COVID-19 related expenses, DHCD did not have the funds to make its allocated payments to OAH. To close the fiscal 2021 budget, OAH canceled two outstanding encumbrances of DHCD reimbursements. A proposed fiscal 2022 deficiency appropriation provides \$143,245 in reimbursable funds for OAH to cover the prior year expenses.

### **Fiscal 2023 Overview of Agency Spending**

Similar to other legal and judicial agencies in the State, the OAH budget is largely personnel-oriented, as illustrated in **Exhibit 1**. Approximately 84% of the budget is allocated for personnel. Additionally, there is funding for interpreters (\$283,000) and security staff (\$125,000) at OAH hearing sites. Other significant expenses include rent (6%) and office related spending (6%).

**Exhibit 1**  
**Overview of Agency Spending**  
**Fiscal 2023 Allowance**  
**(\$ in Thousands)**



Source: Department of Budget and Management

**Proposed Budget Change**

As depicted in **Exhibit 2**, the allowance for OAH increases by approximately \$225,830, or 1.4%. The agency’s budget is almost entirely reimbursable funds collected from State agencies that utilize OAH services.

**Exhibit 2**  
**Proposed Budget**  
**Office of Administrative Hearings**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b>Special <u>Fund</u></b>	<b>Reimb. <u>Fund</u></b>	<b><u>Total</u></b>
Fiscal 2021 Actual	\$13	\$16,345	\$16,358
Fiscal 2022 Working Appropriation	52	16,542	16,594
Fiscal 2023 Allowance	<u>52</u>	<u>16,768</u>	<u>16,820</u>
Fiscal 2022-2023 Amount Change	\$0	\$226	\$226
Fiscal 2022-2023 Percent Change		1.4%	1.4%
<b>Where It Goes:</b>			<b><u>Change</u></b>
<b>Personnel Expenses</b>			
Funding for restoring abolished office clerk and administrative law judge positions.....			\$155
Turnover expectancy .....			138
Employees’ retirement system .....			12
Retiree health insurance premiums .....			8
Social Security contributions .....			-5
Accrued leave payout.....			-2
Regular earnings.....			-18
Health insurance.....			-80
<b>Other Changes</b>			
Funding for e-filing system.....			172
Software licenses.....			52
Department of Information Technology services.....			15
Consulting and computer services.....			10
Equipment .....			5
Electrical utilities .....			-6
Telephone expenses .....			-10
Legal services.....			-11
Data processing equipment .....			-34
Travel expenses .....			-40
One-time fiscal 2022 deficiency to cover prior year foreclosure mediation expenses.....			-143
Other adjustments.....			-3
<b>Total</b>			<b>\$226</b>

Note: Numbers may not sum due to rounding. The fiscal 2022 working appropriation includes deficiency appropriations. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

## Implementation of New e-Filing System

The fiscal 2023 allowance includes funds for the implementation of a new e-filing system for OAH. This information technology project would bring OAH in line with other legal agencies in the State such as the Office of the Public Defender and the Office of the Attorney General. This system will allow an individual the ability to request a hearing for multiple case filing types, upload the relevant documents, and submit electronic payments. Documents that are submitted using the e-filing system will be transferred into PDF format and then uploaded manually into CaseLoad, which is OAH’s case management system. This project will help OAH better serve Marylanders and increase efficiency.

### Personnel Data

	<u>FY 21</u> <u>Actual</u>	<u>FY 22</u> <u>Working</u>	<u>FY 23</u> <u>Allowance</u>	<u>FY 22-23</u> <u>Change</u>
Regular Positions	117.00	115.00	115.00	0.00
Contractual FTEs	<u>0.50</u>	<u>0.50</u>	<u>0.50</u>	<u>0.00</u>
<b>Total Personnel</b>	<b>117.50</b>	<b>115.50</b>	<b>115.50</b>	<b>0.00</b>

#### *Vacancy Data: Regular Positions*

Turnover and Necessary Vacancies, Excluding New Positions	3.37	2.93%
Positions and Percentage Vacant as of 12/31/21	6.00	5.13%
Vacancies Above Turnover	2.63	

- **Two Abolished Positions to Be Restored:** In the fiscal 2022 budget, 2 positions were abolished, including 1 office clerk II and 1 ALJ position. However, during subsequent deliberations, it was decided that this decision needed to be reversed. The \$154,532 in funds to restore these positions has been included in the fiscal 2023 allowance with the positions scheduled to be restored in a supplemental budget.

## Key Observations

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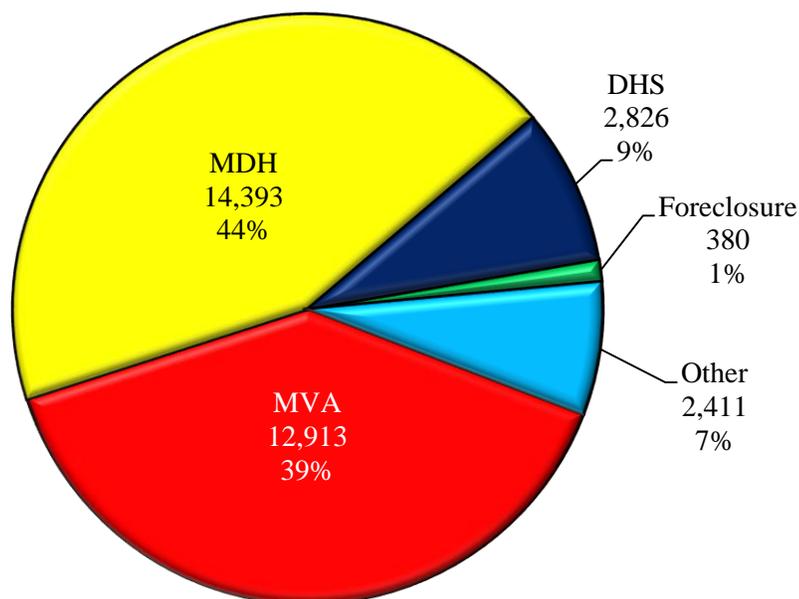
### 1. OAH Overview and Performance Measures

#### State Agency Hearings

OAH is largely funded by reimbursable funds provided by over 30 State agencies, which are charged for OAH services in the case of a hearing. The costs charged to each agency are calculated via a funding matrix that ensures that agencies are fairly and proportionally charged for the services provided by OAH and its judges. Overall, the agency's cases primarily deal with the Motor Vehicle Administration (MVA) and the Maryland Department of Health (MDH), as seen in **Exhibit 3**. A review of the types of cases that OAH hears for each agency is available in **Appendix 1**.

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**Exhibit 3**  
**Hearings by Agency/Type**  
**Fiscal 2021**



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

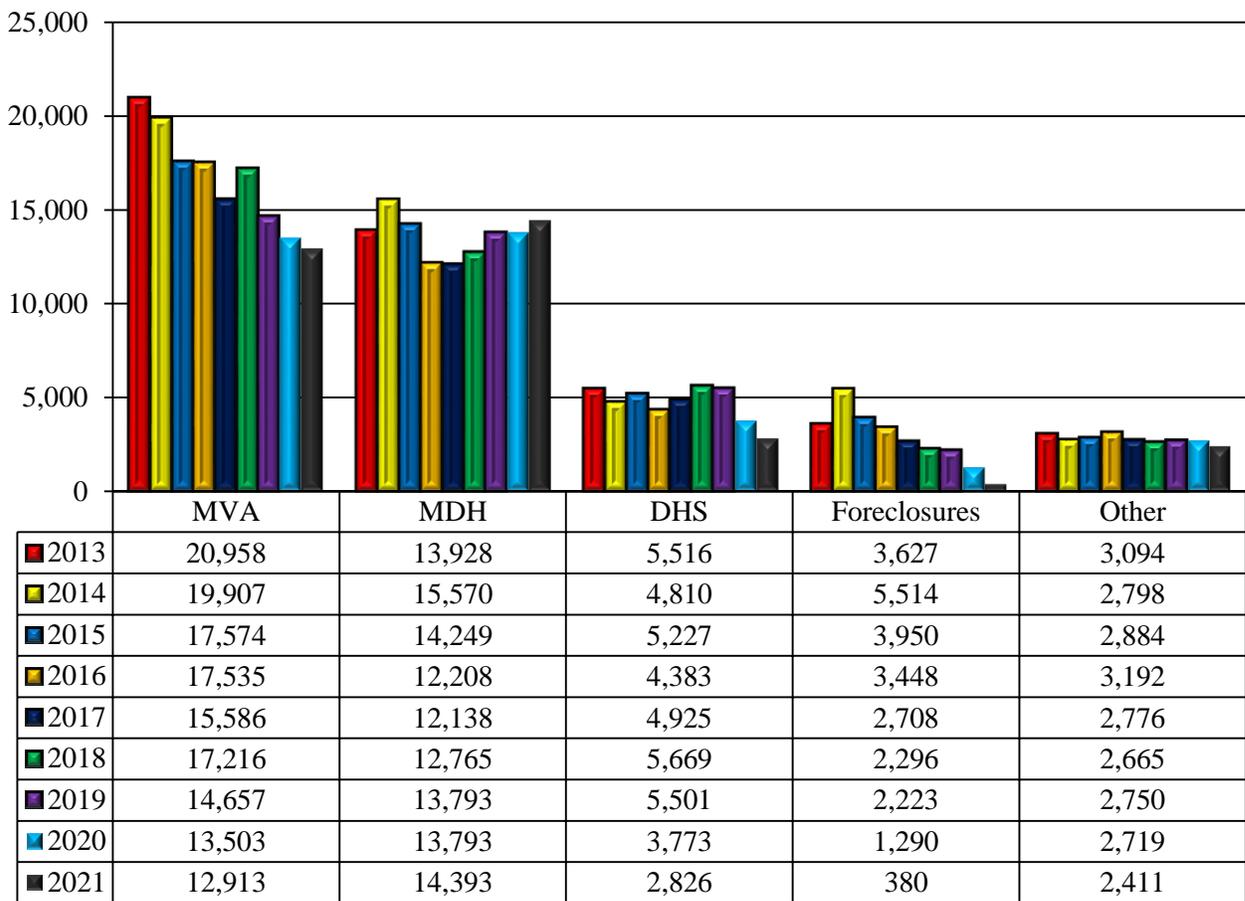
Source: Department of Budget and Management

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## Total Cases Rise by 4%

The proportion of cases each year by agency has remained consistent, with total cases increasing by 4% in fiscal 2021. The number of MVA cases increased by 23% in fiscal 2021, while the number for MDH increased by 4%. The number of cases from the Department of Human Services (DHS) and foreclosure mediation decreased by 25% and 71%, respectively, between fiscal 2020 and 2021. The number of all other types of cases declined by 1% in fiscal 2021. However, total cases are still down 30% since fiscal 2013. **Exhibit 4** depicts caseloads delineated by agency since fiscal 2013.

**Exhibit 4**  
**Total Cases Disposed by Agency**  
**Fiscal 2013-2021**



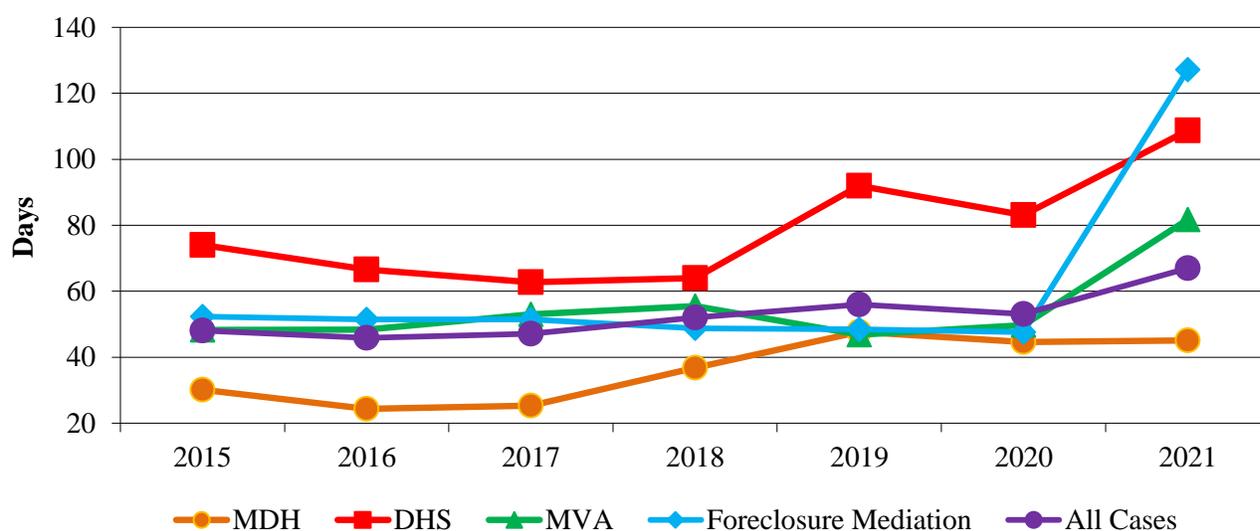
DHS: Department of Human Services  
MDH: Maryland Department of Health  
MVA: Motor Vehicle Administration

Source: Office of Administrative Hearings

## All Case Types See Increases in Processing Times

In fiscal 2021, the number of days between when an appeal is filed and when it is dispensed with, or the case processing time, has increased for all the agencies for which OAH handles hearings, as shown in **Exhibit 5**. MDH cases rose by a modest 1.1% in fiscal 2021, while those for DHS rose 30.8%, and MVA rose 64.4%. The cases that OAH receives from DHS include public assistance cases and child abuse and neglect cases. DHS cases are conducted at local departments of social services (LDSS) throughout the State. In response to COVID-19, many of these LDSS offices were closed, and hearings had to be postponed. While hearings were eventually shifted online using virtual hearings, some delays are still involved due to the time necessary to ensure that participants have access to the hearing process. **OAH should comment on the accessibility of virtual hearings and the actions being taken to ensure that all Marylanders have access to OAH hearings.**

**Exhibit 5**  
**Case Processing Times**  
**Fiscal 2015-2021**



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

Source: Department of Budget and Management; Department of Legislative Services

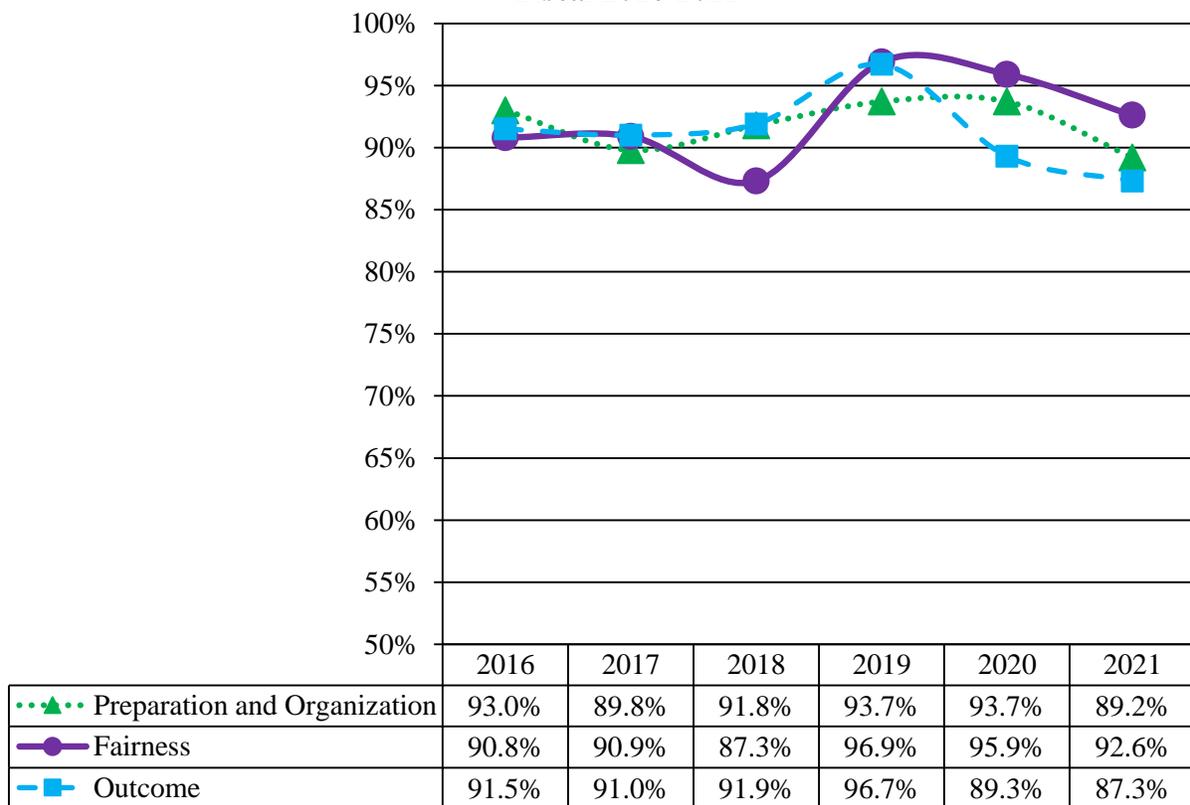
Foreclosure mediation had the largest increase in case processing time (167%) between fiscal 2020 and 2021. In response to the impacts of COVID-19, federal, State, and local moratoriums impacted the filing and proceedings in foreclosures. OAH was prohibited by law from conducting foreclosure mediations during the COVID-19 moratoriums. Additionally, with a smaller number of foreclosure cases, it takes fewer outliers to potentially move the average higher. **OAH should comment**

on what is driving rising case processing times and the actions being taken to bring these rates back down to pre-2021 levels.

### Hearing Satisfaction Rates Decline

Throughout each year, OAH measures the quality of its hearings by sending surveys to participants who rate their satisfaction with the preparation and organization at the hearing, the fairness of the proceedings, and the overall outcome of the proceedings. As illustrated in **Exhibit 6**, the percentage of participants who rated these elements as satisfactory or excellent fell in all categories. In fiscal 2021, the satisfaction rate for preparation and organization declined by 4.5 percentage points, while the fairness and outcome satisfaction rates decreased by 3.3 and 2 percentage points, respectively. **OAH should comment on the decline across all three measures in fiscal 2021 and the actions being taken to address declining satisfaction rates.**

**Exhibit 6**  
**Hearing Results Rated Satisfactory or Excellent**  
**Fiscal 2016-2021**



Source: Department of Budget and Management

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

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1. Concur with Governor's allowance.

**Appendix 1**  
**Hearing Case Types by Agency**

<u>Agency Name</u>	<u>Common Case Types</u>
<b>Motor Vehicle Administration</b>	Drunk Driving Offenses; Accumulation of Points on Driver’s License; Ignition Interlock Noncompliance; Violations on a Provisional License; Commercial Driver’s License Disqualification; Medical Advisory Board Suspensions
<b>Maryland Department of Health</b>	Medical Assistance (Including Long-Term Care, Medical Assistance Coverage/Eligibility; Community First Choice); Involuntary Admission to a Behavioral Health Unit; Hearing on Court Recommendations for Persons Adjudged Not Criminally Responsible; Clinical Review Panel Appeals; Patient Bill of Rights Cases ( <i>i.e.</i> , Involuntary Discharge from a Nursing Home)
<b>Department of Human Services</b>	Food Stamps, Child Abuse and Neglect, Temporary Cash Assistance; Foster Care Suspensions and Terminations
<b>Maryland Insurance Administration</b>	Premium Surcharge Hearings; Nonrenewals; Consumer Complaints
<b>Office of the Attorney General</b>	Consumer Protection Cases (Including Opioid Cases); Landlord Violations; Securities Division Cases; Unfair and Deceptive Trade Practices; Home Builder Guaranty Fund
<b>Independent Boards Related to the Maryland Department of Health</b>	Maryland Board of Physicians; Board of Nursing; Board of Dental Examiners; Also, Antitrust Supervisory Review Relating to Board Disciplinary and Cease and Desist Orders
<b>Maryland Department of Labor</b>	Home Improvement Commission and Real Estate Commission: Guaranty Fund Cases and Disciplinary Cases; Commission of Financial Regulation: Fraud and Consumer Protection Cases
<b>State Personnel Management System</b>	State Employee Terminations, Suspensions, Disciplinary Actions, Grievances, and Whistle-blower Actions
<b>Maryland State Police</b>	Handgun Permit Review Board Appeals; Security Guard and Security Guard Agency Licensing; Automobile Safety Technician Cases
<b>Department of Natural Resources</b>	Oyster, Fishing, and Crabbing Licenses; Wetlands; Pollution Cases
<b>Maryland State Department of Education</b>	Special Education ( <i>e.g.</i> , Individualized Education Plans; Free Appropriate Public Education; Reimbursement for Private Placement in Nonpublic School); School Redistricting; Board of Education Cases
<b>Maryland Health Benefits Exchange</b>	Health Insurance Eligibility
<b>Maryland Department of the Environment</b>	Lead Paint Cases; Sediment/Stormwater; Oil Pollution Control

Source: Office of Administrative Hearings

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

<u>Object/Fund</u>	<u>FY 21 Actual</u>	<u>FY 22 Working Appropriation</u>	<u>FY 23 Allowance</u>	<u>FY 22 - FY 23 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	117.00	115.00	115.00	0.00	0%
02 Contractual	0.50	0.50	0.50	0.00	0%
<b>Total Positions</b>	<b>117.50</b>	<b>115.50</b>	<b>115.50</b>	<b>0.00</b>	<b>0%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 13,738,717	\$ 13,938,917	\$ 14,157,197	\$ 218,280	1.6%
02 Technical and Special Fees	23,390	22,223	20,823	-1,400	-6.3%
03 Communication	144,040	154,040	144,040	-10,000	-6.5%
04 Travel	187,000	187,000	147,000	-40,000	-21.4%
06 Fuel and Utilities	80,000	80,000	74,480	-5,520	-6.9%
07 Motor Vehicles	5,999	7,199	7,141	-58	-0.8%
08 Contractual Services	871,399	795,783	1,038,966	243,183	30.6%
09 Supplies and Materials	130,000	146,800	146,800	0	0%
10 Equipment – Replacement	42,068	42,068	7,700	-34,368	-81.7%
11 Equipment – Additional	15,000	15,000	15,000	0	0%
13 Fixed Charges	1,120,385	1,062,161	1,061,119	-1,042	-0.1%
<b>Total Objects</b>	<b>\$ 16,357,998</b>	<b>\$ 16,451,191</b>	<b>\$ 16,820,266</b>	<b>\$ 369,075</b>	<b>2.2%</b>
<b>Funds</b>					
03 Special Fund	\$ 13,258	\$ 52,399	\$ 52,414	\$ 15	0%
09 Reimbursable Fund	16,344,740	16,398,792	16,767,852	369,060	2.3%
<b>Total Funds</b>	<b>\$ 16,357,998</b>	<b>\$ 16,451,191</b>	<b>\$ 16,820,266</b>	<b>\$ 369,075</b>	<b>2.2%</b>

Note: The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.