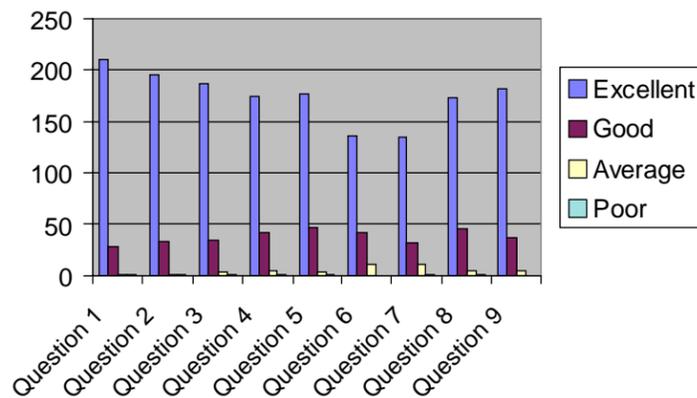
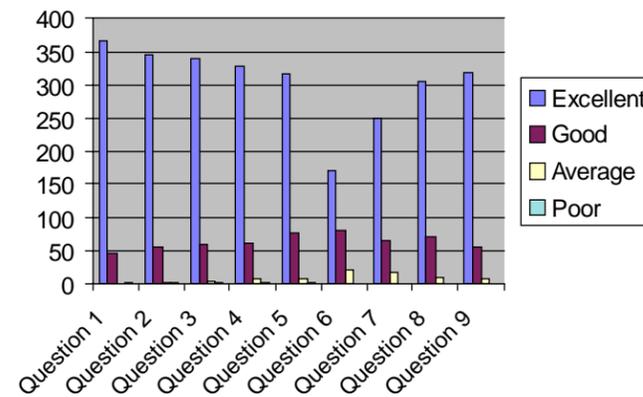


Evaluations of OAH Services

Unrepresented Responses 1st Quarter



All Responses 1st Quarter



Questions:

1. Attentiveness of ALJ
2. Effectiveness in explaining the hearing process
3. ALJ's use of clear and neutral language
4. Impartiality
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

Note: The four major groups of respondents are: Represented private party; unrepresented private party; counsel for a private party; and counsel for the agency. The respondents fill out the evaluations immediately after the hearing and the evaluations are not disclosed to the ALJ involved.

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007

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



Jane Dee Hull
Governor

Cliff J. Vanell
Director

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Official Newsletter of the Arizona Office of Administrative Hearings

TOP TEN THINGS NOT TO DO AT AN ADMINISTRATIVE HEARING

Lewis Kowal, Administrative Law Judge

Director's note: OAH is committed to fairness and making hearings accessible to all. This article is the third in what we at OAH plan to be 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 is derived from David Letterman's Top Ten List and, although there is some humor injected, the topics are serious and intended to provide useful information. This and previous articles are available on OAH's website at www.azoah.com

Administrative Law Judge that documents, photographs, and other items exist but were not brought to the hearing, it is as if such items do not exist. Judges need to review evidence. Representations that such evidence exists, without bringing it to the hearing, are not going to be helpful to a party's case. When a party brings exhibits to the hearing, copies should be brought for the Judge and for the other party.

8. "MY DOG ATE MY WITNESS."

Do not show up at the hearing and inform the Administrative Law Judge that ten witnesses could have been brought to the hearing "who would testify that" If witnesses would be helpful to a party's case, a party should ensure their appearance at the hearing so the Judge can observe them and listen to their testimony. Parties may subpoena witnesses in accordance with OAH Rule 2-19-113. If a witness cannot physically be present, a party may file a request to have a witness appear telephonically. If you wish to proceed in that manner, see OAH Rule 2-19-114.

7. "TABLE FOR TWO?"

Do not bring any snacks, chewing gum, chewing tobacco, food, or beverages into the hearing room. Pitchers containing water are made available in the hearing room for use by the parties, witnesses, and observers. All food items, other than bottled water, are to remain outside the hearing room

10. "HEAR" TODAY, GONE TOMORROW!

Once the hearing time and date has passed, the hearing cannot be reset by just a telephone call, so do not call the Office of Administrative Hearings (OAH) and ask for a hearing. Read the Notice of Hearing for the date, place, and time of the scheduled hearing. In most cases, the hearing will be held in Phoenix, Arizona. The OAH also maintains a Tucson office. Periodically, there are cases (primarily Child Protective Services and Registrar of Contractors) that are heard in other venues (Flagstaff, Kingman, Lake Havasu, Prescott, Show Low, Sierra Vista, and Yuma).

9. "HEY ROCKY, WATCH ME PULL A RABBIT OUT OF MY HAT!"

Do not come to the hearing and apologize that you do not have any of the important documents or evidence that you wish the Administrative Law Judge to consider. This is the parties' day to be heard, so come to the hearing prepared. If a party comes to the hearing unprepared and informs the

Top Ten

(continued page 2)

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."

began in 1961 with California. The current states having adopted the model, with year of inception are: Arizona (1996), California (1961), Colorado (1976), Florida (1974), Georgia (1995), Illinois (1997), Iowa (1986), Kansas (1998), Louisiana (1996), Maryland (1990), Massachusetts (1974), Michigan (1996), Minnesota (1976), Missouri (1965), New Jersey (1979), North Carolina (1986), North Dakota (1991), Oregon (1999), South Carolina (1994), South Dakota (1994), Tennessee (1975), Texas (1991), Washington (1981), Wisconsin (1978) and Wyoming (1987).

The process of unifying the administrative hearings function in OAH-style agencies

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 **96.5%** of all recommended decisions acted upon by the agencies.* ALJ decisions, including recommended orders, were accepted without modification in **91.95%** of all recommended decisions acted upon by the agencies. **82.4%** of all agency modification was of the order only (i.e. penalty assessed).

Appeals to Superior Court:

The appeal rate was **3.358%**, defined as appeals taken (53) over hearings concluded (1578).

Rehearings:

The rehearing rate was **.697%**, defined as rehearings scheduled (11) over hearings concluded (1578).

Completion Rate:

The completion rate was **66.36%**, defined as cases completed (1578) over new cases filed (2378).

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 **42 days**. The frequency of continuance, defined as the number of continuances granted (207) over the total number of cases first scheduled (1557), expressed as a percent, was **13.29%**. The ratio of first settings (1557) to continued settings on the calendar (235) was **1 to 0.15**.

Dispositions:

Hearings conducted: **66%**; vacated prior to hearing: **32%**; hearings withdrawn by agency: **2%**.

Contrary Recommendations and Agency Response:

25.8% of recommendations were contrary to the original agency action where agency took a position. Agency acceptance of contrary recommendations was **84.1%**.

* 1% of ALJ recommended decisions were certified as final by the OAH due to agency inaction.

written by a party or witness will not be allowed to be read into the record during the hearing. An Administrative Law Judge cannot discern the truthfulness of a witness if a party is reading a statement rather than testifying from the party's own knowledge. If that were to occur, the person might as well just submit the document and have the Judge read it without taking up valuable hearing time. Documents can be offered as exhibits to be admitted into the evidentiary record for consideration by the Judge. Also, when appropriate, documents can be used to refresh a person's recollection as to specific details.

5. "CURB YOUR ELEPHANT."

Copies of original items or documents may be brought to the hearing room to be used as evidence. Once a hearing is concluded and there is a final administrative decision, the matter is subject to appeal. The courts will not accept large items to be part of the record on appeal. In order to avoid a problem with submission of the record to a court, such large objects will not be admitted into evidence at a hearing before the OAH. Generally, only items that can fit within an 8 1/2" x 11" folder will be admitted into evidence. Do not expect that large items such as blueprints, doors, bricks, etc. will be admitted into the evidentiary record. Although large items will not be admitted, such items may be utilized at the hearing as demonstrative evidence. That means that they can be viewed by the parties, witnesses, and the Judge, and testimony, may be presented concerning such items. However, parties should expect to leave the hearing room

with any large items that are brought into the hearing room.

4. "AND NOW FOR SOMETHING COMPLETELY DIFFERENT..."

Read the OAH pamphlet that accompanied the Notice of Hearing because it contains important information as to the procedures followed by the OAH. Additionally, parties and members of the public are encouraged to visit the OAH's website at www.azoah.com to learn more about the OAH and the Administrative Law Judge who will be presiding over a particular matter. Review the procedures set forth in the OAH's administrative rules. The rules provide information as to when continuance requests should be filed and what information the Judge may consider. Also, the parties may wish to attend another OAH hearing to observe the Administrative Law Judge or become familiar with the hearing process.

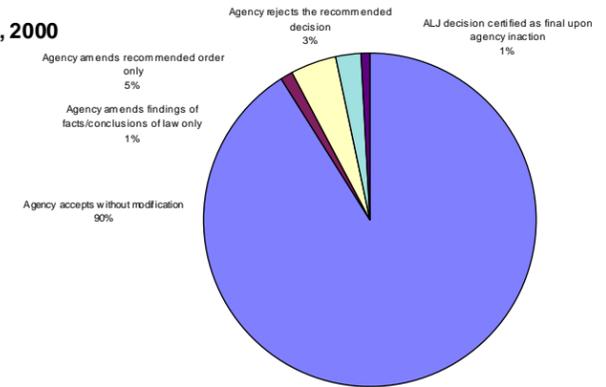
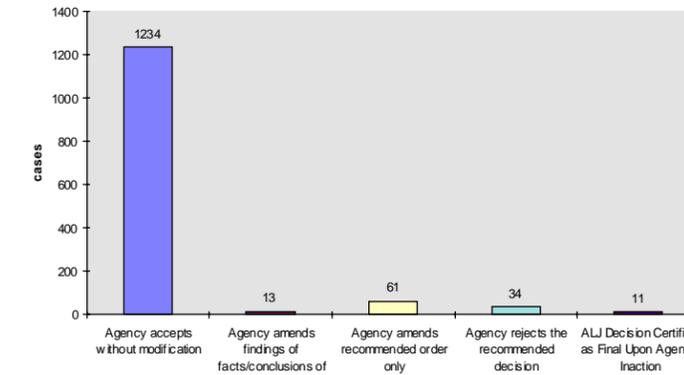
3. "HEY GOOD BUDDY!"

Be respectful of the administrative process, and address the Administrative Law Judge as "Your Honor", "Judge", or "Mr. or Ms..." but do not address the Judge by his or her first name or as a "hearing officer".

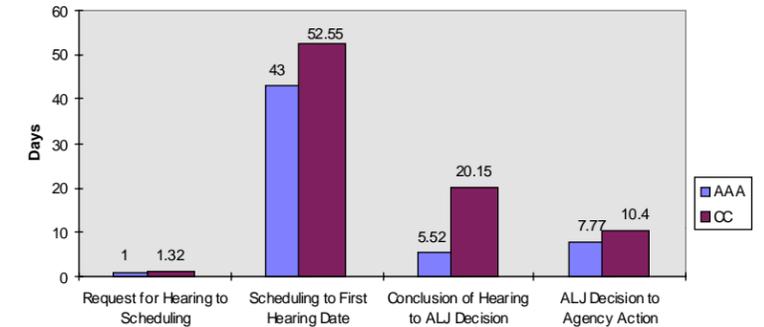
2. "WELL...ISN'T THATSPECIAL?"

Do not come to the hearing expecting to get loud or overly emotional. The hearing is a time to have the parties air their differences before a neutral third party, the Administrative Law Judge. It is inappropriate to use profanity, yell, or become disruptive. Acting in that manner does not accomplish anything except the possibility of being admonished for not behaving appropriately. A person who is unruly or disruptive to the hearing process may be removed from the hearing room if he or she does not maintain proper decorum. See OAH Rule 2-19-120. If a party or witness is removed from the hearing room because of unruly behavior, the hearing will proceed in that person's absence. All parties disagree to some extent on the facts and/or the applicable law. If they agreed, then there would be no need for the hearing. Parties can air their differing views through the calm presentation of witnesses' testimony and the submission of items into evidence. Getting loud does not sway a Judge. Being respectful and courteous to the

Agency Response to Recommended Decisions July 1 - September 30, 2000



Average Time Between Selected Events - Appealable Agency Actions v. Contested Cases*, July 1 - September 30, 2000



*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.

Judge as well as to the other participants in the hearing makes for a more pleasant and productive hearing.

1. "SAY GOODNIGHT, GRACIE."

Hearings are held Monday to Friday during normal business hours of 8:00 a.m. through 5:00 p.m. Do not assume that the hearing will continue past 5:00 p.m. even if witnesses and parties have come from out of town. If a hearing does not conclude at the end of the business day, the hearing will likely be rescheduled for a further hearing date.

2,378 Cases Filed July 1, 2000 - September 30, 2000

	1st Q	FY 2001		1st Q	FY 2001		1st Q	FY 2001
Accountancy	15	15	Economic Security	1	1	Physical Therapy	0	0
ADA	0	0	Economic Security-CPS	70	70	Podiatry	0	0
Administration	4	4	Education	0	0	Psychologist Examiners	1	1
Admin. Parking	61	61	Environ. Quality	24	24	Public Safety - CW	1	1
Agriculture	0	0	Funeral	0	0	Public Safety - Trans	4	4
Ag. Empl. Rel. Bd.	0	0	Gaming	2	2	Public Safety - Adult CC	3	3
AHCCCS	1637	1637	Health Services	52	52	Pvt. Post. Ed.	0	0
Appraisal	0	0	Insurance	24	24	Racing	4	4
AZ Commission on the Arts	0	0	Land	3	3	Radiation Regulatory	0	0
Attorney General	0	0	Liquor	29	29	Registrar of Contr.	316	316
Arizona Works	0	0	Lottery	1	1	Real Estate	22	22
Banking	6	6	Maricopa Cty. Housing	0	0	Revenue	25	25
Behavioral Health Ex.	1	1	Medical Examiners	1	1	School - Deaf & Blind	0	0
Building/Fire Safety	36	36	Naturopathic	0	0	Secretary of State	1	1
Charter Schools	0	0	Nursing	4	4	Technical Registration	5	5
Chiropractic	4	4	Osteopathic	0	0	Water Qual. App. Bd.	0	0
Community Colleges	0	0	Parks	0	0	Water Resources	4	4
Cosmetology	4	4	Peace Ofc. Standards	4	4	Weights and Measures	7	7
Dental	2	2	Pest Control	0	0			

Top Ten

continued from page 1

at all times. During the hearing, recesses occur, at which time snacks or drinks may be obtained. A one hour lunch recess is generally taken but can be extended, at the Judge's discretion. Listen to the Judge as to the time when the hearing will resume. If the Judge informs the parties that there will be a fifteen minute recess, that means be back in the hearing room within fifteen minutes. Do not expect the Judge to wait longer than the fifteen minutes to reconvene the hearing.

6. "EXTRA, EXTRA, READ ALL ABOUT IT!"

Each Judge has discretion as to what to permit at each hearing. Generally, however, prepared testimony that is