OFFICE OF ADMINISTRATIVE HEARINGS

2008 ANNUAL REPORT
The Office of Administrative Hearings (OAH) is an independent unit within the executive branch of State government created to centralize and improve Maryland’s administrative hearing process at a reduced cost to its citizens.

Thomas E. Dewberry is the Chief Administrative Law Judge (CALJ). A ten-member State Advisory Council on Administrative Hearings (Council) meets regularly 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. Section 9-1604(c) also permits OAH to prepare and submit its report in conjunction with the Council. In the interest of government efficiency and economy, OAH and the Council submit their 2008 annual reports jointly.

Mission

OAH’s mission is to provide due process for any person or business affected by the action or proposed action of State agencies in a prompt and efficient manner.

I. EXECUTIVE SUMMARY

The following is a summary of OAH’s 2008 accomplishments:

A. Meetings with Agencies

Maintaining communication with the agencies for which OAH conducts hearings is vital to its on-going operation.
CALJ Dewberry and members of his staff met with personnel from the following Maryland State agencies:

- Department of Budget and Management (DBM)
- Department of Education (MSDE)
- Department of Health and Mental Hygiene (DHMH)
- Department of Human Resources (DHR)
- Department of Information Technology (DoIT)
- Department of Labor, Licensing and Regulation (DLLR)
- Department of Legislative Services (DLS)
- Department of Public Safety and Correctional Services (DPSCS)
- Inmate Grievance Office, DPSCS
- Maryland Insurance Administration (MIA)
- Motor Vehicle Administration (MVA)
- Office of the Attorney General (OAG)

B. Community Outreach and Education

**Branded D.U.I.**

In 2008, OAH continued to receive requests for speakers and Administrative Law Judges (ALJ) traveled to high schools around the State to introduce the Emmy Award winning film, *Branded D.U.I.*, and discuss the dangers of underage drinking and driving. The expectation is that teens will identify with at least one of the students in the film, learn from the experiences of their peers and make better choices.

OAH continuously works to increase public awareness so that Maryland's citizens are familiar with OAH and its mission. ALJs are always available for community outreach and education.
In the past year, ALJs:
- Participated as faculty members for the Academy of Special Education Hearing Officers
- Served as members for local task forces
- Served on committees at the Mediation and Conflict Resolution Office
- Made presentations to bar associations, community colleges, universities, middle and high schools
- Served as trial judges at area high school and college mock trial competitions
- Served as mentors for the University of Baltimore School of Law’s shadowing program

C. Local, National and International Perspectives

Local

**Maryland Judiciary**

On March 14, CALJ Dewberry participated in a Maryland Judicial Institute (the Institute) training program. The Institute is responsible to the Maryland Judicial Conference for all judicial education and training. The Institute develops, provides and evaluates comprehensive, diverse and cost-effective continuing legal education for the judges of Maryland. The OAH was honored to receive an invitation from Judge Glenn T. Harrell of the Maryland Court of Appeals to participate in the March training session. The training participants were given background information on the OAH as well as receiving an in depth overview of our Agency.

Also, on September 21, Judge Harrell and Judge James R. Eyler, Maryland Court of Special Appeals, presented an annual update on recent Maryland appellate administrative law decisions. Judge Harrell has been conducting this annual ALJ training session for approximately fourteen years.

**Maryland State Bar Association**

OAH is proud to report that ALJ Wayne A. Brooks, Deputy Director of Operations, was elected President of the Howard County Bar Association. As President of this local bar association, ALJ Brooks was nominated, elected and now serves as a member of the Maryland State Bar Association’s (MSBA) Board of Governors.

CALJ Dewberry, ALJs Yvette N. Diamond, Kathleen Chapman, and Wayne A. Brooks are members of the Administrative Law Section Council (Section) of the MSBA. The Section meets on a regular basis throughout the year and is responsible for developing an educational program for MSBA’s Annual Meeting. This year, ALJ Diamond coordinated speakers for the Section’s program, which
dealt with mental health and the commitment process. The Section presented a one-act play entitled "Satellite Parking" that was written by former OAH ALJ Paul Handy. CALJ Dewberry was a cast member and ALJ Laurie Bennett participated on a panel which discussed forced medication issues.

In addition to CALJ Dewberry and ALJ Bennett, Director of Operations, ALJ Jana Corn Burch; Director of Quality Assurance, ALJ J. Bernard McClellan; and ALJ Brooks attended the MSBA Annual Meeting, which was held in Ocean City, Maryland in June. The Educational Programs were beneficial to the ALJs, particularly the programs dealing with dispute resolution, ethics, professionalism, efficient and effective ways to use paralegals, and witness reliability. This annual meeting provides a forum for ALJs to discuss OAH with members of Maryland's legal community.

Maryland and District of Columbia Association of Administrative Adjudicators

Maryland and District of Columbia Association of Administrative Adjudicators (MDCAA), an affiliate organization of the National Association of Administrative Law Judiciary (NAALJ). In 2008, ALJ James T. Murray served as President of MDCAA.

National

Central Panel Directors

The central panel concept has been incorporated to greater and lesser degrees in thirty-one jurisdictions. Maryland's OAH is one of the largest central panels in the country with the broadest jurisdiction.

CALJ Dewberry and ALJs Burch, McClellan and Brooks attended the 2008 Central Panel Directors' Conference in Anchorage, Alaska on September 10 - 13. This annual conference is an opportunity for Maryland's OAH management staff to meet with other central panel directors and exchange ideas. Directors discussed the results of a national survey of central panel directors, orientation films for self-represented litigants, new possibilities in case management technology, improving sound recording; and ethical issues for final decisionmakers.
**National Association of Administrative Law Judiciary**

The NAALJ 2008 Annual Conference was held in New York City on October 12 – 15. CALJ Dewberry, Deputy Director of Quality Assurance, Denise Oakes Shaffer, and ALJs Murray, Rojugbokan and Welshko attended this Conference.

CALJ Dewberry is an Officer and holds the position of Treasurer. As Treasurer, he is a member of the NAALJ Board of Governors

In addition, ALJs McClellan, Brooks, Shaffer, Bennett, Murray and Welshko attended the NAALJ Mid-year Meeting and Educational Conference in June, which was held in Harrisburg, Pennsylvania. The Conference was hosted by the Widener University School of Law.

**American Bar Association**

In recognition of ALJ Diamond’s production of *Branded D.U.I.*, she was awarded the National Highway Traffic Safety Administration/American Bar Association’s Judicial Division/National Conference of Administrative Law Judiciary’s Judicial Fellowship in October of 2006. This was a two year Fellowship that concluded in September of 2008. As the Judicial Fellow, ALJ Diamond worked with the National Highway Traffic Safety Administration (NHTSA) and the American Bar Association (ABA) to provide education, resources and outreach to judges and the public throughout the United States aimed at improving highway safety and the delivery of justice.

Following are some highlights of ALJ Diamond’s 2008 activities as the Judicial Fellow:

- attended the ABA’s Midyear and Annual Meetings and reported on her Fellowship activities to the Judicial Division/National Conference of the Administrative Law Judiciary and NHTSA
- Editor of *Highway to Justice*, an ABA quarterly publication on the topic of highway safety and the administration of justice. This publication is included with the ABA’s *Judicial Division Record*
- provided input to the National Center for State Courts on the development of a website which provides information about impaired driving. It is expected that this website will be a resource for judges and judicial educators
- presented an all day seminar regarding traffic safety, teen driving issues, dealing with pro se litigants, bias in decision-making and professionalism and civility to Florida administrative adjudicators who hear MVA cases in that State
• attended a Traffic Adjudication for ALJs course at the National Judicial College. ALJ Diamond served as a facilitator/member of the faculty for the program.

International

On September 17, OAH hosted a Russian Delegation of the Open World Program. The Russian Judges observed administrative hearings and met with ALJs Burch, McClellan and Shaffer. Following the morning session with OAH personnel, the Russian Judges met with Mary Ellen Barbera, Associate Judge of the Maryland Court of Appeals, and Dennis Sweeney, Circuit Court Judge for Howard County, to discuss the appellate process after an administrative hearing. Richard D. Bennett, United States District Court Judge, contacted OAH and arranged this site visit.

D. Financial Impact of OAH’s Fiscal 2008 and Appropriated Fiscal 2009 Budget

OAH’s appropriated budget for Fiscal 2009 is $13,478,092, which includes a 2% cost of living adjustment for State employees. Approximately 95% of OAH’s appropriation is dedicated to salaries and benefits, contractual services and rent of facilities. The breakdown of OAH’s budget is:

83% Salaries and benefits, including contractual employees
4% Contractual services of which half is dedicated for legal services
7% Rent for three offices
6% Routine travel, utilities, supplies and materials, equipment and motor vehicle operations

The majority of OAH funds are reimbursable, which is the transfer of funds from agencies for which hearings are held. An allocation of cost is prepared each year based upon 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 1st of every fiscal year, agencies transfer the appropriated funds to OAH. Attachments A and B show Fiscal 2008 and 2009 agency allocations.
In 2008, OAH improved service to the citizens of Maryland and increased efficiency through:

- Enhanced technology
- ALJ training programs
- Continuing community outreach and education
- Participation on Task Forces
- Video-conference hearings
- Installing two computers and wireless capability in the Law Library
- Improved website design
- Utilization of mediations and settlement conferences
- Implementation of Video Committee

E. Managing for Results (MFR)

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.

MFR allows OAH to track its performance in the following three key areas:

1. completion of the administrative hearing process, from appeal to disposition;

2. issuance of non-bench decisions in a timely manner; and

3. conducting administrative proceedings in a professional and competent manner and issuing decisions that address and resolve the issues raised by the participants of the proceedings.

In Fiscal 2008, OAH was able to document a reduction in the number of days from appeal to disposition in 7 of the 9 case types that are tracked, including reductions from 66.8 days to 63.2 days in DHR cases, 260.1 days to 237.1 days in DLLR cases, 105 days to 78.3 days in DPSCS cases, 106.3 days to 90.5 days in State Personnel and Management System cases and 107.8 days to 101.9 days in Miscellaneous cases from agencies not otherwise specifically monitored. The percentage of non-bench decisions that were issued in a timely manner equaled last fiscal year's rate of 98.5% and the number of participants in the hearing process who rated the hearing process as either Satisfactory or Excellent exceeded the previous fiscal year's rates in all three areas.

F. Information Technology

The year 2008 brought many technological changes and enhancements to OAH.
**Laptops**

OAH purchased Dell Latitude D630 laptops for its ALJ staff and digital recording software, which will be installed in the laptops, and will provide ALJs with the ability to work from remote locations during any "down time." Because the laptops will be used to record hearings, ALJs will now be required to transport their laptops to various hearing locations around the State. As a result of the mandatory use of laptops, each ALJ will now be able to record a hearing via digital recording software, access the document management system to work on a decision, and access Microsoft Outlook to read and respond to electronic mail. The use of the laptops provide the ALJs with the ability to complete his/her day-to-day activities in a more expeditious manner positively impacting OAH’s service to Maryland citizens. In addition, the use of the laptops and the new digital recording software will significantly improve the quality of the recordings of OAH’s hearings.

**Digital Recording Project**

The Information Technology (IT) department will start the implementation phase of the digital recording project in January 2008. VIQ Solutions Encompass software will provide a flexible digital recording solution for all of OAH’s Hunt Valley hearing rooms and a portable digital solution when ALJs travel throughout the State to conduct hearings. The digital recording software will provide an automatic download process of the recordings from a laptop or a fixed workstation to OAH’s network without any manual intervention. This process will occur automatically each time ALJs connect their laptops to the local area network. OAH’s media department can then transfer the audio recording into its case management system or to an audio CD for transcription.

**CaseLoad 4.0 Migration Project**

OAH’s IT department successfully moved the CaseLoad 4.0 case management system to a server that is covered under a factory hardware warranty. The new CaseLoad 4.0 server provides OAH with a stable working environment for our current case management system until the new myCaseLoad software is ready for implementation.
MdTime Leave Accounting System

The IT department installed the beta version of the MdTime leave accounting system on OAH's network to help streamline the process of OAH's timesheets. Other State agencies are also piloting MdTime's electronic timesheet, including DBM, to help develop a statewide leave accounting system. OAH's Administration, Operations and IT departments are currently testing this new leave accounting system.

OAH Google Search Engine

DBM has implemented a new search system for Maryland.Gov and affiliated State government agency web sites. This new search system is powered by Google Search Engine technology. OAH implemented the new Google search feature on our web site on March 23, 2007. The new search engine provided the State's citizens/visitors efficient and consistent access to information.

G. OAH’s Participation in Statewide Initiatives

Mental Health Subcommittee

In 2008, ALJ Brooks continued to participate on the Mental Health Subcommittee of the House Workshop to Study Maryland Law Regarding Access to Firearms and Sharing of Health Information. In summary, the task force has been reviewing ways that the Maryland State Police (MSP) could gain access to mental health information for gun permit applicants. It is expected that, if implemented, OAH would be instrumental in that process because it conducts hearings related to persons with mental illness and collects basic information about the dispositions for those hearings. OAH diligently worked with MSP, DHMH and DPSCS to determine how the information can be shared in conformity with state and federal laws that require protection of such medical records.

DPSCS was awarded the FY 2008 National Criminal History Improvement Program Solicitation (NCHIP) Grant, which will provide funding to DPSCS and OAH to automate access to information concerning persons who have been adjudicated as having a mental disorder or have been committed to a mental institution and prohibit them from possessing or receiving a firearm. The Maryland Involuntary Admissions System was a representative initiative for the
State of Maryland's Department of Information Technology Fiscal Year 2010 Master Plan.

**Leave Accounting System (LAS) Committee**

The LAS/MdTime User Group, which consists of 22 agencies, continued to meet to work on the new online system, MdTime. OAH participated as a pilot agency for the MdTime system and a small group of OAH employees continued to use the new system throughout the year.

OAH's Director of Finance, Patricia Bennett, has been working with the user group since the inception of OAH in 1990. Ms. Bennett continued to test the new MdTime system and worked on the committee responsible for analyzing the accuracy of MdTime and compiling necessary changes and reports needed to go live with the new system. Ms. Bennett is also a co-coordinator of the group in the capacity of assisting other agencies with questions and problems regarding the older LAS system.

**2008 Branding Standards for Maryland State Government Websites**

OAH's IT Department attended Statewide Web Manager Meetings and received information from DoIT on the new Branding Guidelines for State Government Websites which would bring a common look and feel to all Maryland State agency websites. OAH's IT Department worked with the Webmaster Supervisor from the Department of Natural Resources to develop OAH's website template.

In December, IT submitted OAH's new website design to DoIT and requested approval to move forward with the statewide website branding requirements. OAH received four suggestions from DoIT, which were implemented. A small group of OAH employees will continue to work on updating the entire website in the upcoming year.

**Task Force to Combat Driving Under the Influence of Drugs and Alcohol**

CALJ Dewberry continued his participation on the Task Force to Combat Driving Under the Influence of Drugs and Alcohol (the Task Force) and served as Chair of the Raising Public Awareness about and Involvement in Reducing Impaired Driving Subcommittee.

This Task Force was established in 2007 by Senate Bill 198 to consider ways to combat driving while under the influence of drugs and/or alcohol. The Task Force was required to: review achievements in combating impaired driving
within the past 20 years; identify and assess current efforts to address impaired
driving; identify national best practices for combating impaired driving;
determine if any gaps exist between current State efforts and the identified
national best practices; recommend necessary actions to implement national best
practices in Maryland; recommend new State initiatives to address populations
that are disproportionately responsible for driving fatalities due to impaired
driving; recommend actions to sustain and enhance public awareness and
concern for the dangers imposed by impaired driving; and recommend strategies
for the improved coordination of management, funding, and resources at State
and local levels.

The Task Force issued its Findings and Recommendations to the
Legislature and Governor O'Malley in October of 2008.

Health Occupations Task Force

ALJ Brooks is the OAH representative participating on the Health
Occupations Task Force. This Task Force met in the last quarter of 2008 and is
scheduled to submit a report to the General Assembly in January of 2009.

OAH and MVA Automation of Operations

OAH and MVA worked in 2008 to develop a web retrieval system that
electronically retrieves and transmits MVA hearing requests and case
documents, which are used in MVA hearings, between the two agencies. The
web retrieval system will allow for a customer’s driving record to be
automatically updated following the completion of a MVA hearing, which an ALJ
conducts. The web retrieval system will access MVA’s Data Information
Workflow System using pre-existing virtual private network connectivity
between OAH and MVA via networkMaryland.

Telework Program

OAH’s Telework Program is based upon legislation that was enacted in
1999 and DBM’s Telework Policies are strictly adhered to. The Director of
Operations is OAH’s Telework Coordinator and attends Statewide telework
meetings. Each OAH teleworker is required to sign both an Agency Telework
Agreement and an OAH Internal Telework Policy Agreement. ALJs are assigned
to telework specific days each month depending on the ALJs’ workload and
availability.
II. Legislative History and Background

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 on Administrative Hearing Officers with examining the then-current administrative hearing system and recommending needed changes. The final report strongly endorsed the creation of a centralized administrative hearing process and identified 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 DHMH, DLLR and the Maryland Department of the Environment were consolidated into a central office. ALJs were cross-trained to handle a wide variety of cases and projected operational efficiencies were realized. Uniform Rules of Procedure were promulgated in 1991 and the Code of Ethics modeled on the Judicial Code of Ethics were 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 former CALJ Hardwicke, two Cabinet Secretaries and representatives of the Judiciary, business community, labor unions, the MSBA 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 OAH's Rules of Procedure, COMAR 28.02.01, were adopted incorporating the revisions to the APA.

III. Miscellaneous Additional 2008 Activities

A. Administration

1. Personnel

OAH's CALJ is appointed by the Governor for a six-year term. CALJ Dewberry was appointed on May 22, 2002 and was re-appointed by Governor

OAH began 2008 with 122 authorized positions, all of which were filled at the start of the fiscal year. Fifty nine of the positions are for ALJs who are appointed by the CALJ. Of the total filled positions, 34% are African-American, 1% is Hispanic and 70% are women. Of the ALJs, 13% are African-American, 1% is Hispanic and 49% are women. OAH remains 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 five years of experience. ALJs may be removed for cause and are considered special appointees within the professional service of the State Personnel Management System. ALJ salaries now range from $76,858 to $110,297, with the average being $81,483.

ALJs’ work has a significant impact on both public and private interests and requires a high degree of education, skill responsibility and professionalism. The work frequently involves highly complex legal matters, requiring detailed written decisions that must be issued between seven to 90 days after the close of the record.

2. Facilities

OAH’s headquarters in Hunt Valley is accessible from I-83 North and provides ample free parking. There are two light rail stations within walking distance of the building and bus service make the building accessible via public transportation.

OAH’s Administrative Law Building houses 23 hearing rooms, two attorney-client meeting rooms, a clerk’s office, 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, 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.
B. Operations

OAH's Operations Division:
• is responsible for the scheduling and assignment of cases
• reviews caseload to ensure that backlogs do not develop
• ensures expeditious case management
• monitors the timeliness of decisions
• supervises ALJs, Clerk's Office staff, IT Staff and secretarial staff
• monitors legislation
• oversees OAH's Telework Program
• handles all Public Information Act requests

OAH conducts fair and timely hearings in contested cases for more than thirty 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 OAH or, with the permission of the CAU, a person not employed by OAH. Md. Code Ann., State Gov't § 10-205 (Supp. 2006). In 2008, OAH received 47,167 new cases. Caseload statistics for 2008 are included in Attachment C.

1. Statistics for Special Education Hearings and Mediations

In 2008, OAH conducted an average of four special education due process hearings per month resulting in 49 written special education decisions. There were, however, 294 hearing requests received and the majority of those were scheduled for hearings. Most of those hearing requests were either withdrawn, disposed of via motions or the case settled prior to the hearing date.

It is noteworthy that 345 special education mediation requests were made in 2008, which resulted in an average of 29 mediations being scheduled each month. Of those 345 mediation requests, 231 were actually conducted and 164 settled, resulting in a 71% successful mediation rate.

OAH also conducts mediations in Patient's Bill of Rights, Health Care Matters, Environment and Boat Excise Tax cases. OAH settled 55% of the total number of mediation/settlement conferences that were conducted in 2008.

2. Satellite Office and Outlying Hearing Locations

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

OAH also has an arrangement with DLLR’s Unemployment Insurance Hearing Unit with regard to sharing hearing space at various locations throughout the State. Currently, OAH shares hearing space with the Unemployment Insurance office in Hunt Valley and Cumberland.

One ALJ is assigned to OAH’s Salisbury office and both satellite offices are fully integrated with the Hunt Valley OAH headquarters through OAH’s network. A team leader assigned to Hunt Valley provides oversight and assistance for the Salisbury satellite office.

3. Teleworking

In 2008, 47 ALJs and six OAH employees teleworked for a total of 5,653 hours. ALJs also work at home, in between and/or after traveling to their dockets.

In addition to OAH’s telework initiative, ALJs are encouraged to establish remote access to OAH though the Internet using their assigned OAH laptop computers or through their home computers. At the end of 2008, those ALJs who had established remote access to OAH were eligible to telework and/or work-at-home under OAH’s policies regulating both of those programs.

Allowing ALJs to telework and work-at-home has created operational efficiencies in that ALJs’ travel time is reduced and ALJs are able to focus on decision writing with fewer interruptions and distractions. There is also a savings on fuel, mileage reimbursement, wear and tear on State vehicles as well as having a positive impact on Maryland’s roads and the environment.

4. Legislation Affecting OAH

Few legislative initiatives passed by the General Assembly in the 2008 legislative session will have much, if any, impact on OAH. Some of this legislation may generate additional hearings for OAH and others expand the types of remedies that may be considered in various cases.

First, Senate Bill 764/House Bill 811 makes various substantive changes in the law relating to the State Board of Dental Examiners, but the bills also created a Task Force on the Discipline of Health Care Professionals and
Improved Patient Care, which will study health occupations generally. The task force includes in its membership two members of the legislature, members of the various Boards, and delegates from the Attorney General’s Office and OAH, among others. ALJ Brooks, on behalf of CALJ Dewberry, served on the task force.

**Senate Bill 712** alters the penalties for a person convicted of failing to yield the right of way if the violation contributes to serious bodily injury or death. The bill provides that a violator is subject to maximum penalties of a $1,000 fine and a 180-day license suspension. Although a driver subject to these sanctions may request a hearing on the license suspension, OAH does not anticipate many cases.

**House Bill 409** authorizes the Maryland Home Improvement Commission (MHIC) to issue a proposed order without a hearing for claims against the Guaranty Fund of up to $5,000, an increase of $2,500. The limit on an award to a single claimant for an act or omission of a single contractor is increased from $15,000 to $20,000. If anything, this bill may reduce the number of hearings by OAH.

**Senate Bill 1008/House Bill 1557** rename the Home Builder Registration Unit within the Consumer Protection Division of the Office of the Attorney General to be the Home Builder and Home Builder Sales Representative Registration Unit. The bills expand the purview of the unit to include sales representatives employed by a home builder and repeal current licensing requirements for these sales agents. The bills require sales representatives for a home builder to register with the MHIC before providing services in the State. A sales agent for a nonprofit organization with at least a two-year record of developing affordable housing is not required to be registered by the unit. Once registered, a sales representative must display the registration certificate at his or her primary place of business. A home builder must provide a written disclosure regarding the professional relationship between the builder and the sales representative, with any materials available at a property serviced by a registered sales representative; this disclosure must also be included with the first agreement signed by the consumer. This bill may slightly increase the number of hearings for OAH.

It is important to note that OAH’s Legislative Liaison, ALJ Wayne Brooks, who reviews, monitors and testifies on all proposed legislation that affects OAH, also serves as OAH’s Deputy Director of Operations, responsible for assisting with the daily operation of OAH and OAH’s Public Information Act Officer, responsible for handling all PIA requests in a timely manner; and he is regularly scheduled to hear cases as an ALJ.
C. Quality Assurance (QA)

OAH's Quality Assurance Division:
- oversees the quality of written decisions
- has primary responsibility for the hiring of ALJs and other legal staff
- trains new ALJs
- offers mandatory monthly judicial education for ALJs, paralegals and staff attorneys and out-of-office training programs
- oversees OAH's library
- maintains decision and hearing notice boilerplates, Time Frame matrix, Bench Manuals and Case Digests
- supervises staff attorneys, paralegals, librarian and management associate
- is responsible for OAH's Speaker's Bureau

The most significant changes for the QA Division in 2008 were the changes in its Director and Deputy Director. In July, ALJ J. Bernard McClellan was appointed Director of QA and ALJ Denise Oakes Shaffer was appointed Deputy Director of QA. ALJ McClellan previously held the position of Deputy Director of QA and ALJ Shaffer served as an ALJ at OAH.

A major focus of QA continues to be the evaluation of ALJs' performance, which is required by DBM's Performance, Planning and Evaluation Program. QA is responsible for rating all ALJs on their Presence at Hearings and Written Expression. The evaluations are conducted bi-annually and are useful for identifying ALJs who might benefit from additional training and support.

QA is also responsible for training new ALJs and for the ongoing continuing education of the ALJ staff.

The training regime for new ALJs provides for the assignment of an experienced ALJ to serve as a mentor for each new ALJ, who can then assist QA in providing support to the new ALJ and also report to QA on the new ALJ's progress. New ALJs observe experienced ALJs conduct hearings in a specific subject area before being observed themselves. New ALJs rotate through the major subject areas for approximately six months, after which they are released to conduct the full range of hearings independently.

QA conducts mandatory monthly training for the entire ALJ staff, as well as the paralegals and staff attorneys. In addition, QA selects appropriate judicial and special education training programs for ALJs to attend. The 2008 training schedule is at Attachment D.
OAH's computer technology has enabled ALJs to share their work, including decisions, e-mail each other and outside parties, utilize centralized research tools and use on-line research products. In addition, QA is providing valuable support to the ALJ staff and increasing efficiency by maintaining boilerplates, time frames, bench manuals and case digests on OAH's network.

1. **Library**

On January 11, 2008, in a ceremony attended by surviving family members, friends and co-workers, the OAH Library was dedicated to Administrative Law Judge Guy J. Avery. A founding member of the Office of Administrative Hearings, ALJ Avery helped build and support a law library that continues to serve OAH staff, all State agencies, and public patrons. The plaque dedicated in his honor can be viewed in the main reading area of the library.

Decisions written since 1999 are available on OAH's network and can be found electronically by OAH staff. Signed hard copies are also available in the library. Due to the privileged and confidential nature of many of the decisions rendered by the OAH, a Public Information Act request must be submitted to determine if the decision can be reviewed by a member of the public.

OAH library staff provides research assistance to all OAH employees, as well as to the public. The librarian and library assistant receive several inquiries from the public daily about OAH decisions and general Maryland law information. News about the OAH and relevant developments in administrative law are gathered and distributed electronically by library staff.

Under the direction of QA, the library provides a print collection developed to assist OAH staff, State agencies, the bar and citizens. Each ALJ and legal staff member also has access to Westlaw and other online legal research services. QA continues to expand its electronic offerings in addition to maintaining printed material.

In support of our commitment to provide legal research services to all OAH visitors, the library now offers two public computer terminals and wireless access to the Internet. The addition of this service allows state employees, lawyers and others to check email and do research during time spent at the OAH.

2. **Alternative Dispute Resolution (ADR)**

OAH, once again, received a grant from the Mediation and
Conflict Resolution Office (MACRO), which is under the auspices of the Maryland Judiciary, to host a 40-hour mediation training session. The 2008 training session was held on May 19 – 23, 2008.

These training sessions are extremely successful and:
- are attended by employees from various State agencies including the OAG, DBM, DHR and DPSCS
- include OAH’s newest ALJs and staff attorneys who have not had mediation training
- prepare agency employees to resolve disputes at the agency level or consider mediation in cases where an appeal has been filed with OAH
- certify that each participant “has successfully completed a minimum of 40 hours of mediation training including areas specified in Maryland Rule 17-106”

ADR is extremely beneficial because it includes a number of procedures that are designed to simplify and expedite the resolution of controversies without the need for a hearing or trial.

ADR:
- Generally refers to any procedure that utilizes the services of a neutral party to assist in reaching an agreement
- Avoids the expense, delay and uncertainty of litigation
- Provides a forum for the parties to work toward a voluntary, consensual agreement, as opposed to having an ALJ or other authority decide the outcome of the case
- Includes mediation and settlement conferences, which OAH utilizes frequently
- Encourages and improves communication between the parties
- Is used in OAH’s mediation program for Special Education appeals which is a prime example of the benefits of the mediation process. OAH settled 71% of the Special Education cases mediated in 2008.

3. Speaker’s Bureau

QA is also responsible for authorizing requests made to the Speaker’s Bureau and assigning ALJs.

IV. Conclusions

OAH will continue to work in 2009 to further improve the administrative hearing process. CALJ Dewberry looks forward to working with Governor O’Malley and his cabinet in the upcoming year and was extremely honored to be sworn in by the Governor on April 3, 2008 for his second six-year term. He will continue to ensure that the citizens of Maryland receive fair and timely hearings and remains committed to saving the State funds during these difficult fiscal times.
CALJ Dewberry realizes the importance of maintaining open communication with the agencies for which hearings are conducted. The MVA and OAH Automation of Operations project is a large collaborative effort which will result in the electronic retrieval and transmittal of MVA hearing requests and case documents to the OAH. In addition to the important benefits of eliminating the need to courier paper documents between the two agencies on a daily basis, this web retrieval system will allow Licensee’s driving records to be automatically updated following the conclusion of an OAH MVA hearing. The OAH stands ready to assist each agency in any way that is appropriate.

OAH remains grateful for the support, hard work and dedication of its employees and the guidance that it receives from the Advisory Council. CALJ Dewberry recognizes that State employees have had to deal with significant financial hardship and he appreciates the extraordinary efforts of each of OAH’s employees.
Attachment A

OAH FUNDING FY 2008

- DOT: 34%
- DHMH: 11%
- DLLR: 14%
- DHR: 18%
- MSDE: 13%
- MISC: 10%

Legend:
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- DHMH
- DLLR
- DHR
- MSDE
- MISC
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* Incomplete and Fee cases are not calculated in "TOTAL Received".
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<td>State Board of Physicians: The Board’s process for receiving and investigating consumer complaints</td>
<td>Irving Pinder, Executive Director; Yemisi Koya, Manager of Investigations, Thomas Keech, Board Counsel; Isreal Weiner, M.D., Consultant; Vicki Pepper, Assistant Attorney General</td>
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<td>February 15, 2008</td>
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<td>Maryland Insurance Administration: First Party Bad Faith Cases</td>
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<td>Robert Zarbin, Esq.</td>
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<td>March 14, 2008</td>
<td>Accommodating Disabilities in Hearings (all day)</td>
<td>Mary Ann Fairchild, Maryland Department of Disabilities and MDOD staff</td>
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<td>Special Education: Time Limits on Evidence</td>
<td>ALJ O’Conner</td>
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<td>Medical Assistance Issues: Topic: SSA Denials, Representation, Sequential Evaluations</td>
<td>ALJs Jacobson, Barry, Miller, Perez, Bennett, Dargan, Craig and Friedman</td>
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<td>August 15, 2008</td>
<td>Maryland Commission on Human Relations</td>
<td>Article 49B – Amendments &amp; Regulations Updates Glendora Hughes, General Counsel, Commercial Non-Discrimination Policy: An Overview of the Law and Regulations; Tanyka M. Barber, Human Relations Representative</td>
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<td>October 10, 2008</td>
<td>Ethics/Professionalism 9:00 – 12:00</td>
<td>Steven Lemmey, Esquire Investigative Counsel, Maryland Commission on Judicial Disabilities Professionalism and Demeanor – Louis Hurwitz, Chairman, Ethics/Professionalism Committee; Judy Jacobson, Vice Chair; and Committee members Harriet Helfand and Marc Nachman Discussion of hypothetical ethical dilemmas</td>
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<td>MVA Update 1:00 – 4:00</td>
<td>Roxanne Langford, Program Manager of Administrative Adjudication; Thomas Liberatore, Director of Driver Services; Deondra Jones, Acting Manager of Driver Wellness and Safety</td>
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<td>November 14, 2008</td>
<td>CHR</td>
<td>Glendora Hughes, General Counsel, CHR</td>
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<td>December 4, 2008</td>
<td>Special Education Law Update</td>
<td>Art Cernosia, Esq.</td>
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