

**REPORT ON HANDGUN PERMIT APPEALS
2021 CASELOAD STATISTICS**

OFFICE OF ADMINISTRATIVE HEARINGS

Report required by Public Safety Article § 5-312(d)
(Chapter 0002 of the Acts of 2020)
December 31, 2021

2021 REPORT REQUIREMENT

Section 5-312(d) of the Public Safety Article provides that, on or before January 1, 2019, 2020, 2021, and 2022, the Office of Administrative Hearings (OAH) shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly: (1) the number of appeals of decisions by the Secretary that have been filed with the Office of Administrative Hearings within the previous year; (2) the number of decisions by the Secretary that have been sustained, modified, or reversed by the Office of Administrative Hearings within the previous year; (3) the number of appeals that are pending; and (4) the number of appeals that have been withdrawn within the previous year.

OVERVIEW

In 2018, the Legislature passed House Bill (HB) 1343 which provided for the repeal of the Handgun Permit Review Board and that appeals from certain decisions by the Secretary of State Police or the Secretary's designee may be made to the OAH. The Governor vetoed HB 1343 and the Legislature voted to override the Governor's veto during the 2020 Legislative Session.

OAH has been collecting data to comply with Section 5-312. On March 16, 2020, however OAH suspended all hearings as a result of the COVID shutdown. Only essential hearings, including involuntary psychiatric admissions, clinical review panel appeals, and special education disputes, resumed on March 30, 2020. Motor vehicle driver's licensing hearings (MVA) resumed on an opt-in basis in April, and all MVA hearings began to proceed remotely on August 3, 2020. Other hearing types were consistently, safely, and thoughtfully added to the workload through the spring and summer. OAH's Hunt Valley Office resumed in-person hearings on July 6, 2020. Many other hearing locations throughout the State remain closed or inaccessible for OAH hearings. OAH staff converted and continues to convert many in-person hearings to remote hearings.

The majority of the Handgun Permit appeal hearings which were held after July 6, 2020 were in-person hearings. The data that follows reflects this anomalous year for the period December 16, 2020 through December 15, 2021.

Number of appeals of decisions by the Secretary that have been filed with the Office of Administrative Hearings in 2021

428

Number of decisions by the Secretary that have been sustained, modified, or reversed by the Office of Administrative Hearings within the previous year

170 - Sustained

0 - Modified

13 - Reversed

183 - Total: this number includes appeals filed in 2020¹

Number of appeals that are pending

102 – this includes cases awaiting decisions (90 day timeline), cases awaiting hearing/scheduling or pending final default.

Number of appeals that have been withdrawn or cancelled within the previous year

100

In addition, Appellants failed to appear in 98 scheduled hearings.

**OFFICE OF ADMINISTRATIVE HEARINGS
LEGISLATIVE HISTORY AND BACKGROUND**

In 1990, the General Assembly created the OAH to guarantee fundamental fairness in the administrative hearing process and to combat the pervasive perception of unfairness that predated its establishment. Prior to 1990, hearing officers were employees of the agency as well as the decision makers in appeals from agency decisions. This created the well-founded public perception that it was not possible to receive a fair and impartial administrative hearing. As a result, under section 10-205 of the Administrative Procedure Act (APA), the General Assembly required that, in most instances, an agency or board delegate hearing authority to the OAH. *See Anderson v. Dept. of Public Safety*, 330 Md. 187, 213 (1993) ("One of the main objectives of the legislature in establishing the OAH was to provide an impartial hearing officer in contested cases. A hearing officer employed by and under the control of the agency

¹ This number includes the following case types: HPRB; Handgun Permit – Transfer from HPRB; Handgun Permit Denial/Revocation/Limitation; Handgun Qualification License Application

where the contested case or other disputed action arose, often results in the appearance of an inherent unfairness or bias against the aggrieved.”)

The OAH steadfastly adheres to this mission across all aspects of its operations. It consistently issues over 99% of its decisions timely, and citizens of Maryland and State agencies report substantial satisfaction with the fairness of OAH proceedings, the competence of OAH staff and the quality of the decisions issued. Currently, the OAH conducts hearings for over 30 State agencies and in over 500 different case types. An Administrative Law Judge’s workload includes bench decisions, written decisions, and mediations.

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