

**REPORT ON HANDGUN PERMIT APPEALS
2022 CASELOAD STATISTICS**

OFFICE OF ADMINISTRATIVE HEARINGS

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

MSAR #12698

December 31, 2022

2022 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within the previous year; (3) the number of appeals that are pending; and (4) the number of appeals that have been withdrawn within the previous year.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

OAH has been collecting data to comply with Section 5-312.

The following data is for the period from December 16, 2021 to December 15, 2022:

(1) the number of appeals of decisions by the Secretary that have been filed with the Office of Administrative Hearings within the previous year

327

(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

104 – Sustained

0 – Modified

9 – Reversed

(3) the number of appeals that are pending

43 – this includes cases awaiting decisions, cases awaiting hearing, awaiting scheduling, or pending final default.

(4) the number of appeals that have been withdrawn within the previous year.

55

In addition, Appellants failed to appear in 84 scheduled hearings.

Also, the Department of State Police (DSP) rescinded the DSP's denial of a permit in 31 cases after a hearing was requested. As a result, no hearing was held in those cases.¹

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 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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¹ Many of these rescissions were the result of the U.S. Supreme Court's decision in *New York State Rifle & Pistol Association, Inc., et al. v. Bruen, Superintendent of New York State Police, et al.*, in which the Supreme Court held that "New York's proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense." The "good and substantial reason" standard found in Maryland's concealed carry statute is similar to the proper-cause standard found in the New York statute. Following the *Bruen* decision, Maryland Governor Lawrence Hogan directed the DSP to immediately suspend utilization of the "good and substantial reason" standard when reviewing applications for wear and carry permits. See <https://governor.maryland.gov/2022/07/05/governor-hogan-directs-maryland-state-police-to-suspend-good-and-substantial-reason-standard-for-wear-and-carry-permits/>