

**Office of Administrative Hearings  
Performance Oversight  
FY 2022-2023 Pre-Hearing Questions**

AGENCY ORGANIZATION

1. **Please provide a current organizational chart for the office, including the number of vacant, frozen, and filled positions in each division or subdivision. Include the names and titles of all senior personnel and note the date that the information was collected on the chart.**

[See Attachment No. 1 – OAH FY 2023 Agency Org Chart.](#)

2. **Please provide a narrative explanation of any changes made to the organizational chart during the previous year.**

During the previous year, OAH updated the organizational chart in the Case Management and Judicial Support division, and the Customer Service Coordinator position was converted to the Customer Service Manager position in the FY 2023 budget. Additionally, Chief Operating Officer LaShelle Jenkins and General Counsel Smruti Radkar were hired.

3. **Please provide a narrative description of each division and subdivision.**

**Trials, Appeals and Judicial Management** implements the agency's pre-trial, adjudication, and mediation functions. The program is composed of the agency's Administrative Law Judges (ALJs), who are charged with ensuring and improving the quality, efficiency, and administration of justice.

**Agency Management and Operational Support** provides the administrative and operational support tools required to achieve programmatic results. The budget, human resources, contracting and procurement, and information technology support functions comprise this program, which is staffed with the Chief Operating Officer, Administrative Officer, Human Resources Specialist, a Program Analyst, and IT Specialists.

**Case Management and Judicial Support** provides efficient intake and distribution of cases; data entry; caseload reporting; maintenance of forms and documentation; and serves as the primary customer service interface. Program staff includes the Clerk of Court and staff that support the Clerk of Court function.

**Judicial Assistance and Legal Counsel** supports the ALJs' responsibility to ensure agency compliance with applicable case law, statutes, and rules by tracking relevant court cases and District and Federal legislative and regulatory initiatives. Legal Counsel also responds to FOIA requests and manages agency litigation.

4. **Please list any task forces, committees, advisory boards, or membership organizations in which the agency participates.**

Some of OAH's ALJs participate and serve on the D.C. Access to Justice Commission Task Force, the District's Language Access Committee, the D.C. Association of Administrative Law Judges, the National Association of Women Judges District 4, and the

FALJ-DC negotiation team. The agency has internal committees, like the OAH Rules Committee, the OAH Court Management Committee, the OAH Ethics Committee, the Resource Center Committee, and the Recruitment Committee, with the goal of improving the agency's services and operations.

The OAH Advisory Committee advises the Chief ALJ (CALJ) on carrying out her duties and identifies issues of importance to the ALJs that OAH should address. The Advisory Committee also reviews problems related to an administrative adjudication and makes recommendations for statutory and regulatory changes.

As an agency, OAH is not a member of any task forces. OAH's CALJ is a non-voting member of the Commission on Selection and Tenure of Administrative Law Judges (COST), which is responsible for the appointment, reappointment, and discipline of OAH's ALJs.

In addition, OAH jurisdictional clusters invite organizations like the Employer Assistance Program, Legal Aid, and the Claimant Advocacy Program to their quarterly stakeholder meetings.

#### AGENCY PERSONNEL

- 5. Please provide a current Schedule A for the agency which identifies each position by program and activity, with the salary, fringe benefits, and length of time with the agency. Please note the date that the information was collected. The Schedule A should also indicate if the position is continuing/term/temporary/contract or if it is vacant or frozen. Please indicate if any position must be filled to comply with federal or local law.**

[See Attachment No. 5 – FS0 FY23 Schedule A.](#)

- 6. How many vacancies were posted during FY 22? To date in FY 23? Please identify each position, how long the position was vacant, what steps have been taken to fill the position, if the position is now filled and, if not, whether the agency plans to fill the position.**

[See Attachment No. 6 – OAH vacancy report.](#)

- 7. Please provide each collective bargaining agreement that is currently in effect for agency employees. Please include the bargaining unit and the duration of each agreement. Please note if the agency is currently in bargaining and the anticipated date of completion of each agreement in bargaining.**

OAH is a party to the collective bargaining agreement between the Government of the District of Columbia and the American Federation of State, County, and Municipal Employees (“AFSCME”), which covers employees working for the OAH Clerk of Court, as well as other professional staff at OAH. The compensation agreement for Compensation Units 1 and 2 of AFSCME is effective October 1, 2021 through September 30, 2025. The working conditions agreement is effective through September 30, 2010.

There is also a collective bargaining agreement between OAH and the Federation of Administrative Law Judges – D.C. (“FALJ-DC”) that covers ALJs. The most recent collective bargaining agreement is effective from October 1, 2020 through September 30, 2023. OAH and FALJ-DC will begin negotiations for the successor agreement during FY 2023.

- 8. OAH recently completed third-party arbitration to resolve an impasse in collective bargaining negotiations with the Federation of Administrative Law Judges. Does OAH recommend changes to the D.C. Code which may help to address the comparability issues raised in the arbitration proceedings?**

OAH does not have any recommended changes to the D.C. Code to address comparability issues raised by FALJ-DC.

#### AGENCY BUDGET AND SPENDING

- 9. Please provide a table showing your agency’s Council-approved budget, revised budget (after reprogramming, etc.), and actual spending, by program, activity, and funding source for FY 22 and the first quarter of FY 23. Please detail any over- or under-spending and if the agency had any federal funds that lapsed.**

[See Attachment No. 9 – FY22-Q1 FY23 Budget vs. Actuals Var. by Program](#)

- 10. For FY 22 and FY 23, to date, please list all intra-District transfers to or from the agency.**

[See Attachment No. 10 – FS0 - FY22 FY23 Intra-Districts.](#)

- 11. Please list, in chronological order, each reprogramming that impacted the agency in FY 22 and FY 23, to date, including those that moved funds into the agency, out of the agency, and within the agency. For each reprogramming, list the date, amount, rationale, and reprogramming number.**

[See Attachment No. 11 – FS0 - FY22 FY23 Budget Reprogramming.](#)

- 12. Please list each grant or sub-grant received by your agency in FY 22 and FY 23, to date. List the date, amount, source, purpose of the grant or sub-grant received, and amount expended.**

N/A

- 13. How many FTEs are dependent on grant funding? What are the terms of this funding? If it is set to expire, what plans, if any, are in place to continue funding the FTEs?**

N/A

- 14. Please provide a list of all budget enhancement requests (including capital improvement needs) for FY 22 or FY 23. For each, include a description of the need and the amount of funding requested.**

N/A

**15. Please list any statutory mandates that the agency lacks sufficient resources to fully implement.**

Although OAH has seen dramatic increases in caseloads, OAH has been able to fully implement statutory mandates.

CONTRACTING AND PROCUREMENT

**16. Please list and provide a copy of all memoranda of understanding (“MOU”) entered into by your agency during FY 22 and FY 23, to date, as well as any MOU currently in force. For each, indicate the date on which the MOU was entered and the termination date.**

Please refer to the table below:

FY 2022		FY 2023	
Agency	Duration	Agency	Duration
As Seller Agency			
DCPS	10/1/2021 – 9/30/2022	DCPS	UNDER REVIEW
DFHV	10/1/2021 – 9/30/2022	DFHV	UNDER REVIEW
DHCF	10/1/2021 – 9/30/2022	DHCF	10/1/2022 – 9/30/2023
DOES - OWH	10/1/2021 – 9/30/2022	DOES - OWH	UNDER REVIEW
DOES - PFL	10/1/2021 – 9/30/2022	DOES - PFL	UNDER REVIEW
DOES - UI	10/1/2021 – 9/30/2022	DOES - UI	UNDER REVIEW
HBX	10/1/2021 – 9/30/2022	HBX	10/1/2022 – 9/30/2023
As Buyer Agency			
OCTO	4/29/2022 – 9/30/2022		
ODR	4/19/2022 – 9/30/2022		

See [Attachment No. 16 – FS0 - FY22 FY23 MOA NON-DISTRICT AGENCIES.](#)

**17. Please list each contract, procurement, and lease entered into or extended by your agency during FY 22 and FY 23, to date. For each contract, please provide the following information where applicable:**

- a. The name of the contracting party;
- b. The nature of the contract, including the end product or service;
- c. The dollar amount of the contract, including amount budgeted and amount actually spent;
- d. The term of the contract;
- e. Whether the contract was competitively bid;
- f. The name of the agency's contract monitor and the results of any monitoring activity; and
- g. The funding source.

[See Attachment No. 17 – OAH FY 2023 Contracting and Procurement](#)

**18. For FY 22 and FY 23, to date, please list any purchase card spending by the agency, the employee making each expenditure, and the general purpose for each expenditure.**

[See Attachment No. 18 – PCard Expenditures](#)

**19. For FY 22 and FY 23, to date, what was the total agency cost for mobile communications and devices, including equipment and service plans?**

[See Attachment No. 19 – Mobile Communications](#)

**20. Please provide the Committee with:**

- a. A list of all employees who received or retained cellphones, personal digital assistants, or similar communications devices at agency expense in FY 22 and FY 23, to date;

[See Attachment No. 20 a. – Employee Device Mobile Communications List](#)

- b. A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned as well as a description of all vehicle accidents involving the agency's vehicles in FY 22 and FY 23, to date;

N/A

- c. A list of travel expenses, arranged by employee for FY 22 and FY 23, to date, including justification for travel;

[See Attachment No. 20 c. – Travel Expenses](#)

- d. A list of total workers' compensation payments paid in FY 22 and FY 23, to date, including the number of employees who received workers' compensation payments, in what amounts, and for what reasons.

N/A

**21. What is your agency's current adjusted expendable budget for CBE compliance purposes? How much has been spent with SBEs or CBEs? What percent of the agency's current adjusted expendable budget has been spent with SBEs or CBEs?**

The agency's current adjusted expendable budget for CBE compliance is \$410,886.01. In FY 2022, OAH exceeded the targeted spending on SBEs, which was 50% of the expendable budget. The total percentage spending for FY 2022 on SBEs was 131.75% of the total adjusted expendable budget. The agency expects to continue this trend in the current fiscal year.

**22. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared or funded during FY 22 and FY 23, to date. Please submit a hard copy to the Committee of any study, research paper, report, or analysis that is complete.**

OAH did not fund any studies, research papers, reports, or analyses in FY 2022 and FY 2023 to date.

**23. Please list and describe any spending pressures the agency experienced in FY 22 and any anticipated spending pressures for the remainder of FY 23. Include a description of the pressure and the estimated amount. If the spending pressure was in FY 22, describe how it was resolved, and if the spending pressure is in FY 23, describe any proposed solutions.**

N/A

AGENCY PRIORITIES AND PERFORMANCE

**24. Please provide a copy of the agency's FY 22 performance report, if one was prepared. Please explain which performance plan objectives were not met in FY 22 and provide an explanation.**

Percent of all non-unemployment insurance cases closed within the fiscal year that were closed within 120 days. - **Unmet**

*Explanation:* Throughout the pandemic, the agency had to prioritize hearings for Public Benefits and Unemployment Insurance. During FY 2020 and most of FY 2021, workloads doubled, resulting in insufficient staffing resources in certain jurisdictions. ALJs hear oldest cases first unless it is an emergency hearing. Taking all these facts into consideration, the agency maintained the target of 50% for FY 2022. However, the combination of increased case filings and prioritization of certain cases resulted in backlogs in other jurisdictions. OAH was unable to meet the FY 2022 target because of those resulting backlogs. For example, OAH opened more than 8,000 DCRA cases in FY 2022, but the agency started the fiscal year with an existing backlog of 3,411 cases from FY 2021.

Percent of all cases filed within the fiscal year entered into the database within 3 days of filing. - **Unmet**

*Explanation:* OAH's policy is to hear the oldest cases first and our data entry is reflective of that. OAH has continued to make the effort to meet the target. The agency is still addressing backlog from the pandemic due to a significant number of filings that more than

doubled in FY 2021. This doubling of cases has led to an increased amount of backlog for the agency.

Percent of all cases open without approval more than 120 days at the end of the fiscal year. - **Unmet**

*Explanation:* Due to the pandemic and an increase in the number of cases filed, OAH had to prioritize hearings for Unemployment Insurance and Public Benefits cases. OAH resumed hearing all other cases during FY 2021. The resulting backlog of cases negatively impacted the agency's ability to meet its FY 2021 target. However, OAH is making significant progress in meeting this goal in the next fiscal year. Taking these factors into consideration, OAH set a new target of 20% for FY 2022. The agency was unable to meet the FY 2022 target due to the factors listed above. Unfortunately, the agency is still addressing the backlog that arose from the pandemic and that has impacted operations overall.

Percent of mediated cases resolved by agreement. - **Unmet**

*Explanation:* During the pandemic, there was a decline in the need for mediations. The need for mediations increased through FY 2022, but not significantly. This trend is expected to improve in FY 2023.

Percent of jurisdiction in which Final Orders are available for remote access. **Unmet**

*Explanation:* Due to the confidential nature of some cases, only certain jurisdictions were able to make final orders available for remote access. However, the agency is now surveying vendors that are able to provide final order search software that will allow redaction of confidential information.

Percent of new appeals filed by an individual or business using new electronic filing system instead of email, mail or fax. **Unmet**

*Explanation:* OAH published the first phase of the eFiling Portal to the web on August 22, 2022, which allowed litigants to file new appeals in Unemployment Insurance (UI) cases and add documents to existing cases in all jurisdictions. Despite outreach and promotion of the Portal, and compounded by the limited types of cases in which the Portal could be utilized, OAH saw a smaller-than-expected number of new appeals filed via the Portal. OAH expects that number to rise.

[See Attachment No. 24 – OAH FY 2022 Performance Plan.](#)

**25. Please provide a copy of your agency's FY 23 performance plan as submitted to the Office of the City Administrator, if one was prepared.**

[See Attachment No. 25 – OAH FY 2023 Performance Plan.](#)

**26. What are the agency's top five priorities in FY 23? Please explain how the agency expects to address these priorities in FY 23.**

The agency's top priorities for FY 2023 are:

- Increase operational efficiency and the public's confidence in OAH's resolution of disputes;
- Increase the use of mediation to settle cases in certain jurisdictions;
- Facilitate the flow of information to and from agencies whose cases are heard at OAH; and
- Improve the OAH data management system to support a highly efficient, transparent, and responsive OAH.

OAH utilizes Key Performance Indicators (KPIs) and workload measures in addressing its priorities. (See OAH's response to Question No. 28.) Additionally, OAH focused on customer service, emphasizing the use of alternative dispute resolution, and proactively addressing concerns from litigants and stakeholders; continued to allow major client agencies to monitor their OAH cases through access to the case management system eCourt; and implemented upgrades to its case management system to allow greater access, efficiency, and transparency, including publishing to the web an on-line portal through which appeals may be filed electronically.

**27. What were the agency's top five priorities in FY22? Please explain how the agency address those priorities in FY 22.**

The agency's top five priorities for FY 2022 were:

- Increase operational efficiency and the public's confidence in OAH's resolution of disputes;
- Increase the use of mediation to settle cases in certain jurisdictions;
- Facilitate the flow of information to and from agencies whose cases are heard at OAH;
- Improve the OAH data management system to support a highly efficient, transparent, and responsive OAH; and
- Reduce fraud, waste, and abuse in supply/asset management.

OAH utilizes KPIs and workload measures in addressing its priorities. (See OAH's response to Question No. 28.) Additionally, OAH focused on customer service, emphasizing the use of alternative dispute resolution, and proactively addressing concerns from litigants and stakeholders; continued to allow major client agencies to monitor their OAH cases through access to the case management system eCourt; and implemented upgrades to its case management system to allow greater access, efficiency, and transparency, including creating an on-line portal through which appeals may be filed electronically.



**28. What are the metrics regularly used by the agency to evaluate its operations? Please be specific about which data points are monitored by the agency.**

OAH uses KPIs and workload measures to evaluate its operations. In FY 2022, OAH created ten KPIs and eight workload measures to regularly monitor cases filed and managed in the eCourt case management system.

The KPIs are:

- Percent of all non-unemployment insurance cases closed within the fiscal year that were closed within 120 days;
- Percent of all cases filed within the fiscal year entered into the database within 3 days of filing;
- Percent of all unemployment insurance cases closed within the fiscal year that were closed within 90 days of filing;
- Percent of all cases open without approval more than 120 days at the end of the fiscal year;
- Case closer rate at or over 100 percent at the end of the fiscal year;
- Percent of non-unemployment insurance cases resolved through record settlement or voluntary withdrawal;
- Percent of mediated cases resolved by agreement;
- Percent of jurisdictions in which Final Orders are available for remote access;
- The average number of unique hits through the OAH website; and
- Percent of new appeals filed by an individual or business using a new electronic filing system instead of email, mail, or fax.

The workload measures are:

- Number of cases in which mediation occurred;
- Number of cases filed;
- Number of cases closed;
- Cases with AWE pleas and defaults open after 120 days of assignment to an ALJ;
- Number of jurisdictions in which Principal ALJs (PALJs) meet quarterly with agency counterparts;
- Number of jurisdictions in which OGC meet quarterly with agency counterparts;
- Number of jurisdictions in which PALJs meet annually with agency counterparts; and
- Number of jurisdictions in which OGC meets annually with agency counterparts.

**29. Please describe any new initiatives or programs that the agency implemented in FY 22 and FY 23, to date, to improve the operations of the agency. Please describe any funding utilized for these initiatives or programs and the results, or expected results, of each initiative.**

- Addressing high staff turnover. In FY 2022, as was the case in both the private and public sector job markets, OAH suffered from a high number of vacancies. OAH is vigorously recruiting to fill vacant positions, and in an effort to reach more applicants, OAH participated in the December 2022 DCHR job fair. Additionally, OAH is utilizing funding

made available to it by Council to conduct a staffing benchmark study to determine appropriate staffing and salary levels in support of recruitment and retention efforts.

- Expanding the eFiling Portal to permit electronic filing of cases and documents in all case types. OAH expects to publish the last initial phase of the eFiling Portal before the end of the second quarter of FY 2023. This will permit the electronic filing of cases and documents in all case types.
- Publishing to the web a searchable database of final orders. (See Response to Question Number 48.)
- Continuing to evaluate current policies and practices within the rubric of racial equity with the goal of encouraging equal access to hearings and equal justice to all. OAH is committed to expanding our diversity footprint by hiring legal support and administrative staff that are representative of D.C. values and its residents. The agency looks to build organizational capacity by hiring more bilingual staff and to enhance Access to Racial Justice by strengthening outreach, public engagement, and access to city services through technical assistance for communities of color to include migrants and immigrants.
- Evaluating existing hearing room technology. Starting in FY 2022, OAH engaged with consultants Where's My Meetings to assess and make recommendations for the technology currently in the courtrooms. OAH is investigating ways to facilitate a courtroom experience that will allow for remote, hybrid, and in-person hearings in a modern way. OAH utilized \$5,200 of funding for this purpose.
- Assessing current agency technology and workflows. OAH has engaged with Mondrian Consulting, a CBE, to take a deep dive into agency technology and technology driven processes to assess the agency's current state and provide recommendations for improvements. OAH utilized \$10,000 of NPS funds for this purpose.

### LEGISLATIVE, LITIGATION AND REGULATORY ACTIVITY

**30. Please list and describe any regulations promulgated by the agency in FY 22 or FY 23, to date, and the status of each.**

On October 8, 2021, OAH promulgated Final Rulemaking to amend the procedures that govern the public sector workers' compensation cases referred to OAH by the District of Columbia Office of Risk Management ("ORM") and those filed by individual claimants seeking to exercise their rights under the applicable laws. The adoption of this rulemaking is necessary to efficiently adjudicate the pending and anticipated public sector workers' compensation cases in conformity with evolving procedures, regulations, and precedent, as advanced by ORM, OAH, individual litigants, the District of Columbia Compensation Review Board ("CRB"), and the District of Columbia Court of Appeals. The adopted rules are currently in effect.

On September 22, 2022, OAH promulgated Emergency and Proposed Rulemaking to amend OAH's Rules General Rules of Practice and Procedure to allow for the substitution of the Department of Consumers and Regulatory Affairs (DCRA) by its successor agencies, the Department of Buildings (DOB) and the Department of Licensing and Consumer Protection (DLCP). The proposed emergency rulemaking amended the procedures that govern the substitution of parties in cases referred to OAH by DCRA and those filed by

individual claimants seeking to exercise their rights under the applicable laws, where DCRA is a party of interest. Substitution of the successor agencies for DCRA allowed for the administrative adjudication of DCRA proceedings to be consistent with the Department of Buildings Establishment Act of 2020 (“Act”), which substituted DCRA for DOB or DLCP as the enforcement or regulatory agency as specified in the Act. OAH will submit final rulemaking in February 2023.

**31. Please explain any significant impacts on your agency, if any, of any legislation, regulations or judicial decisions at the federal or local level during FY 22 and FY 23, to date.**

**a. Highlight include any legislation, regulations or judicial decisions which created or expanded the right to seek an OAH appeal, the complexity of factors considered by ALJs in deciding appeals or raised questions regarding OAH’s jurisdiction.**

As a general matter, legislation that expands OAH jurisdiction incrementally creates a cumulative impact when several pieces of legislation impacting OAH caseloads are considered simultaneously.

In terms of regulatory matters, the federal government announced that it will likely declare an end to the public health emergency in Spring 2023. As a result, OAH will likely experience an increase in public benefits and rental housing cases requiring adjudication, as federal programs that have extended benefits will be sunseting.

Judicial decisions by the Compensation Review Board in FY 2022 have been critical of deference to regulations issued by the Office of Risk Management in public sector worker’s compensation cases as those regulations are reconciled against the Comprehensive Merit and Protection Act. As the Compensation Review Board continues to issue such rulings, the authority of those regulations will be decided ultimately by the D.C. Court of Appeals.

**b. Please note each instance in which an agency has notified the Office of rules being promulgated pursuant to D.C. Code § 2-1831.13(f) in FY 22 and FY 23, to date.**

In November 2022, the Department of Human Services (DHS) advised of upcoming rulemaking in the following programs that would potentially increase the caseload at OAH: the Career Mobility Action Plan (Career MAP) Program; the District of Columbia Housing Supportive Services (HSS) Program; and the Voluntary Isolation and Quarantine (ISAQ) Pandemic Emergency Program for Highly Vulnerable Clients (PEP-V).

In February 2022, DC Health advised of emergency and proposed rulemaking related to the vaccination exemption for healthcare workers, as described in Section 231. In November 2022, DC Health advised of emergency rulemaking related to the vaccination mandate for healthcare workers, specifically: Section 230 (Mandatory COVID-19 Vaccination for Health Care Workers); Section 231 (Exemptions from

Mandatory COVID-19 Vaccination for Health Care Workers); and Section 4019 (SARS-CoV2/COVID-19 Obligations of Health Professionals).

**32. Please list all reporting requirements in the District of Columbia Code or Municipal Regulations that the agency is required to complete in FY 22 and FY 23, to date. For each requirement, please list the date the report was required and the date it was produced. If the agency did not produce the report on the mandated timeline, please explain why.**

OAH is required to submit the following reports:

- OAH Agency Caseload Summary due by November 15, in accordance with D.C. Code § 2-1831.13(e). OAH submitted its Agency Caseload Summary for FY 2021 on November 15, 2021, and the Agency Caseload Summary for FY 2022 on November 15, 2022.
- OAH's FY 2021 Performance Accountability Report was due by December 6, 2021. OAH submitted its FY 2021 PAR on December 6, 2021. OAH's FY 2022 Performance Accountability Report was due by January 11, 2023. OAH submitted its FY 2022 PAR on January 11, 2022.
- OAH Annual Report due by December 30, in accordance with D.C. Code § 2-1831.05(a)(12). The FY 2021 OAH Annual Report was submitted on December 29, 2021. The FY 2022 OAH Annual Report was submitted in December 30, 2022.
- OAH Annual FOIA Report due at the end of December, in accordance with D.C. Code § 2-538(a). The FY 2021 Annual FOIA Report was due December 29, 2021. OAH submitted its FY 2021 Annual FOIA Report on December 28, 2021. The FY 2022 Annual FOIA Report was due December 30, 2022. The FY 2022 Annual FOIA Report was submitted on December 29, 2022.
- OAH's FY 2022 Performance Plan was due by December 6, 2021. OAH transmitted its FY 2022 Performance Plan on December 6, 2021. OAH's FY 2023 Performance Plan was due by December 2, 2022. OAH transmitted its FY 2023 Performance Plan on December 2, 2022.
- OAH's FY 2021 Annual Cost of Risk Report was due by January 14, 2022 in accordance with D.C. Code § 2-431. OAH submitted the FY 2021 Annual Cost of Risk Report on January 14, 2022. OAH's FY 2022 Annual Cost of Risk Report was due by December 9, 2022. OAH unsuccessfully submitted its FY 2022 Cost of Risk Report on December 9, 2022; successful transmission occurred on December 10, 2022.

**33. Please list all pending lawsuits that name the agency as a party. Identify which cases on the list are lawsuits that potentially expose the District to financial liability or will result in a change in agency practices and describe the current status of the litigation. Please provide the extent of each claim, regardless of its likelihood of success.**

Case Name & Court or Agency Action	Nature of Action	Current Status of Litigation
<p><i>Claudia Barber v. D.C., et al.</i>, U.S. District Court for the District of Columbia, Docket No.: 17-cv-00620-KBJ; 17-cv-01860-KBJ (consolidated)</p>	<p>Plaintiff alleged a violation of her procedural and substantive due process rights under the Fifth Amendment to the U.S. Constitution; a violation of the Equal Protection Clause under the Fourteenth Amendment to the U.S. Constitution; and a constitutional violation resulting from a custom or policy of the District of Columbia under 42 U.S.C. § 1983. In addition, Plaintiff brought a claim against several OAH employees for conspiring for the purpose of depriving Plaintiff of the equal protection of the laws, 42 U.S.C. § 1985(3), and for a violation of the District of Columbia Whistleblower Protection Act. Plaintiff also seeks relief pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000, et seq. and the District of Columbia Human Rights Act, D.C. Code §§ 2-1401 et seq.</p>	<p>On August 13, 2019, the United States District Court for the District of Columbia granted the District’s Motion to Dismiss which dismissed two OAH employees from the suit and multiple counts of the Plaintiff’s Complaint. The Court also ordered the Plaintiff to file an amended complaint consolidating the remaining claims. The Plaintiff’s Second Amended Complaint was filed on September 26, 2019. Depositions were conducted in the fall of 2020. On November 15, 2021, the case was reassigned to Judge Jia M. Cobb after Judge Ketanji Brown Jackson was appointed to the U.S. Court of Appeals for the D.C. Circuit.</p>
<p><i>Linda Bussey v. D.C., et al.</i>, D.C. Court of Appeals, Docket No.: 19-CV-1252</p>	<p>Appeal of Superior Court Case No. 2016 CA 008353 B which dismissed the Plaintiff’s allegations that Defendants violated the D.C. Human Rights Act and</p>	<p>On April 21, 2022, the D.C. Court of Appeals affirmed per curiam the decision of D.C. Superior Court.</p>

	Whistleblower Protection Act.	
<i>Jesse Goode v. D.C., et al.</i> , U.S. Court of Appeals for the District of Columbia Circuit, Docket No.: 21-7038	Appellant Goode appealed the United States District Court for the District of Columbia’s order granting the District’s Motion to Dismiss his amended complaint, entered on March 30, 2021. Appellant Goode brought two claims under 42 U.S.C. § 1983 against the District of Columbia and the members of its Commission on the Selection and Tenure of Administrative Law Judges.	The brief for the District of Columbia was submitted on or about September 8, 2021. Oral argument was held on December 15, 2021. On April 29, 2022, the U.S. Court of Appeals for the District of Columbia Circuit issued a per curiam judgment that the judgment of the United States Court for the District of Columbia be affirmed.
<i>Claudia Barber v. D.C.</i> , D.C. Superior Court, Docket No.: 2020 CA 001022-B	Plaintiff has alleged a violation of the District of Columbia Freedom of Information Act.	D.C. Superior Court granted the District’s Motion to Dismiss and for Summary Judgment on January 26, 2023.
<i>Eva Mae Givens (on behalf of herself and others similarly situated) v. Eugene Adams in his capacity as OAH Chief Administrative Law Judge, et al.</i> , U.S. District Court for the District of Columbia, Docket No.: 20-CV-00307-EGS	Plaintiff alleged an improper calculation of income for the purpose of Medicaid eligibility and the failure to issue a fair hearing decision within 90 days.	Defendants filed a Motion to Dismiss on April 29, 2021. On May 3, 2021, the Magistrate Judge issues a report and recommendation on the Motion to Dismiss. The U.S. District Court for the District of Columbia adopted the Magistrate Judge’s Report and Recommendation, and granted Defendants’ Motion to Dismiss on September 30, 2022. Plaintiff filed a Motion for Reconsideration on October 28, 2022, which has been fully briefed by the parties.

**34. Please list all settlements entered into by the agency or by the District on behalf of the agency in FY 22 or FY 23, to date, and provide the parties' names, the amount of the settlement, and if related to litigation, the case name and a brief description of the case. If unrelated to litigation, please describe the underlying issue or reason for the settlement (e.g. administrative complaint, etc.).**

On January 11, 2022, OAH reached a separation agreement with a former OAH employee. As part of the agreement, OAH is restricted from making any public or non-confidential statement with respect to any claim or complaint without advance notice and mutual consent.

On July 25, 2022, OAH reached a separation agreement with a former OAH employee. As part of the agreement, OAH is restricted from making any public or non-confidential statement with respect to any claim or complaint without advance notice and mutual consent.

**35. Please list the administrative complaints or grievances that the agency received in FY 22 and FY 23, to date, broken down by source. Please describe the process utilized to respond to any complaints and grievances received and any changes to the agency policies or procedures that have resulted from complaints or grievances that were resolved in FY 22 or FY 23, to date.**

N/A

**36. Please provide the number of FOIA requests for FY 22, and FY 23, to date, that were submitted to your agency. Include the number granted, partially granted, denied, and pending. In addition, please provide the average response time, the estimate number of FTEs required to process requests, the estimated number of hours spend responding to these requests, and the cost of compliance.**

Please refer to the table below:

	<b>FY 2022</b>	<b>FY 2023 Q1</b>
FOIA Requests Received	49	10
Granted	16	10
Partially Granted	7	3
Denied	0	1
Pending	19	4
Average Response Time	33 days	49 days
No. FTEs	1	7
Cost of Compliance	\$8,457.82	\$2,882.15

**37. Is OAH currently party to any active non-disclosure agreements? If so, please provide all allowable information on all such agreements, including the number of agreements and the department or division within OAH associated with each agreement.**

N/A

**38. Does OAH require non-disclosure agreements for any employees or contractors?**

No.

**39. Please identify all electronic databases maintained by your agency, including the following:**

**a. A detailed description of the information tracked within each system;**

**PROLAW:** When OAH began operations as a pilot project within the Department of Health in the late 1990s, OAH used the Thompson Reuters “ProLaw” Case Management Software to manage all data related to OAH cases. The system was not as flexible as necessary for court operations. OAH acquired a new case management software (“eCourt”) in 2009. The data in ProLaw was not transferred to eCourt. No new cases have been entered into ProLaw since early 2010. Although the cases are closed, the system is maintained as various agencies periodically ask for information on older cases. On April 24th (FY 2017) ProLaw was upgraded from version 11 to version 2017.1 (17) to be compatible with Microsoft Windows 2012 which was required by the Office of the Chief Technology Officer (OCTO). These records are not accessible by the public as they contain a mix of confidential and public information.

**ECOURT:** OAH acquired the eCourt Case Management Software which is integrated with Hyland OnBase Document Management Software to replace ProLaw. Journal Technologies (JTI) is the eCourt vendor. The system went live at the end of 2009. The system contains all data related to OAH cases, tracks case developments, and allows the generation of documents. Both eCourt and OnBase have experienced ad hoc changes and system refreshes. At their request, many D.C. Government agencies have received view-only access to eCourt to view data related to their cases. There is no public access to eCourt and OnBase as they contain both draft documents and confidential information.

**DATABASES:** There are two databases related to ProLaw, eCourt, and OnBase. They are virtual Microsoft Windows 2012 SQL databases: OAHSQLEPRD01 and OAHSQLEDEV01, which are secure and offsite at an OCTO location. OAHSQLEPRD01 is a “production” or “live” environment which contains all data for the applications (eCourt, OnBase, and ProLaw with its historical data) in use at the present time. OAHSQLEDEV01 is a “test” environment that is refreshed periodically to mirror the data in the production environment. The test environment can be used for troubleshooting, testing, developing changes, and applying system patches/upgrades without risking problems in the live environment. Both databases maintain public and non-public records for OAH cases.



**b. The age of the system and any substantial upgrades that were made in FY 22 or FY 23, to date, or that are planned for the system;**

The oldest dataset used by OAH is the ProLaw database which goes back to 2009. There were no upgrades made in FY 2022 or FY 2023 (to date). There are no planned updates in FY 2023 for the databases.

In December 2021, OAH worked with JTI to upgrade the eCourt test and production environments to release 2020.17-LTS-b1510; the upgrade also resolved any log4j vulnerabilities.

Starting in April 2022, OAH began phase implementation of the eFiling Portal, which allows litigants to file appeals and submit case filings on-line. OAH anticipates completing the initial phased launch of the Portal in the second quarter of FY 2023.

In FY 2022, OAH initiated development of a system to replace its secure cloud management system, Box, with a solution to create a searchable, on-line public database of Final Orders.

**c. Whether the public is currently granted access to all or part of each system; and**

Currently, the public does not have access to eCourt. (See OAH's response to Question No. 39b regarding OAH's efforts to allow public access to online filing and Final Orders.) Some historical Final Orders are available through the secure cloud management system, Box.

**d. Whether the public could be granted access to all or part of each system.**

See OAH's response to Question No. 39b.

**40. Please list and describe any ongoing investigations, audits, or reports on the agency or any employee of the agency that were completed during FY 22 and FY 23, to date.**

There are no ongoing investigations, audits, or reports on the agency or any of its employees that were completed during FY 2022 and FY 2023 to date.

OAH APPEALS ACTIVITY

**41. Please provide the total number of appeals filed with the Office in FY21 through FY23 to date, according to agency and jurisdiction. For each fiscal please note:**

**a. Total number of appeals filed telephonically**

OAH accepts appeals in person, by USPS, by email to oah.filing@dc.gov, by fax, via the eFiling Portal, and, in certain circumstances, by telephone. OAH does not track

the method by which an appeal is filed except to distinguish between those filed via the eFiling portal and all other filings.

With respect to appeals filed by telephone, OAH does not track the number of appeals filed by telephone. Only Public Benefits cases may be initiated by telephone; all other hearing requests must be provided through a written filing.

**b. Total number of appeals filed by email or fax**

OAH does not track the number of hearing requests filed by email or fax. (See OAH’s answer to Question No. 41a.)

**c. Total number of appeals filed through the electronic filing system.**

See OAH’s answer to Question No. 41a. OAH published the first phase of the eFiling Portal to the web on August 22, 2022, which allowed litigants to file new appeals in UI cases and add documents to existing cases in all jurisdictions. OAH published the second phase to the web on November 1, 2022. The second phase allowed litigants to file new appeals in another group of case types. The final phase of the project – allowing litigants to file new appeals in the remaining case types – is expected to go live before the end of the second quarter of FY 2023.

<b>Cases Filed by Agency FY 2021 – FY 2023 (Q1)</b>			
<b>Agency</b>	<b>2021</b>	<b>2022</b>	<b>2023 (Q1)<sup>1</sup></b>
DC Public Schools	6	164	66
Department of Behavioral Health	7	5	1
Department of Buildings <sup>2</sup>	n/a	n/a	1177
Department of Consumer and Regulatory Affairs <sup>3</sup>	4239	7134	1675
Department of Employment Services	4596	2050	240
Department of Energy and Environment	158	213	84
Department of For-Hire Vehicles	2	0	0
Department of Health	203	879	183
Department of Health Care Finance	332	227	46
Department of Housing and Community Development	96	137	28
Department of Human Services	1119	1615	491

<sup>1</sup> The data presented for FY2023 Q1 is current as of February 1, 2023. However, due to the huge volume of enforcement cases received during the quarter, OAH continues to perform data entry, so this number is expected to increase.

<sup>2</sup> The Department of Buildings began operations on October 1, 2022.

<sup>3</sup> Cases that involve Notices of Infractions issued by the Department of Consumer and Regulatory Affairs (DCRA) before October 1, 2022 are still docketed with a DCRA case number.

Department of Licensing and Consumer Protection <sup>4</sup>	n/a	n/a	95
Department of Public Works	4193	7858	1704
Department of Small and Local Business Development	4	3	0
Department of Transportation	199	210	24
Department on Disability Services	6	12	2
Fire and Emergency Medical Services Department	15	28	5
Health Benefit Exchange Authority	25	19	4
Metropolitan Police Department	21	53	13
Office of Planning	41	28	5
Office of Risk Management	69	40	5
Office of Tax and Revenue	25	30	10
Office of the Attorney General - Child Support Services Division	29	20	2
Office of the Secretary	0	1	1
Office of the State Superintendent of Education	4	13	5
Office of Victim Services and Grants	0	1	0
Washington Metropolitan Area Transit Authority <sup>5</sup>	0	0	0

- 42. For the following appeals types, please provide (in table format) the total number filed with the Office as well as average, median, and mode in FY 22 and FY 23 to date for: (a) the number of days from the date of initial filing to the date the initial status conference is held and (b) the number of days from the date of initial filing to the date that OAH renders a decision –**
- a. Appeals regarding programs administered by the Department of Health Care Finance**

<b>Department of Health Care Finance Appeals Filed</b>	
FY 2022	227
FY 2023 Q1	46

<sup>4</sup> The Department of Licensing and Consumer Protection, formerly the Department of Consumer and Regulatory Affairs, began filing cases in its current form on October 1, 2022.

<sup>5</sup> The Washington Metropolitan Area Transit Authority (WMATA) began enforcing fare evasion and conduct infractions in FY 2023. As of the end of FY 2023, OAH had not received any cases involving WMATA enforcement.

<b>Department of Health Care Finance (Number of Days from Hearing Request to Initial Status Conference/Hearing)</b>			
<b>Time Period</b>	<b>Average</b>	<b>Median</b>	<b>Mode</b>
FY 2022	33	30	29
FY 2023 Q1	32	29	29

<b>Department of Health Care Finance (Number of Days from Hearing Request to Case Closure)</b>			
<b>Time Period</b>	<b>Average</b>	<b>Median</b>	<b>Mode</b>
FY 2022	79	58	30
FY 2023 Q1	42	39	30

- b. Appeals regarding SNAP (food stamps) benefits (non-emergency filing)**
- c. Appeals regarding SNAP (food stamps) benefits (emergency filing)**
- d. Appeals regarding TANF benefits**
- e. Appeals of Department of Human Services Medicaid eligibility determinations**

<b>Department of Human Services Appeals filed by Program</b>		
<b>Program</b>	<b>FY 2022</b>	<b>FY 2023 Q1</b>
SNAP	710	224
SNAP (Emergency)	8	4
TANF	361	159
Medicaid	318	66

Department of Human Services (Number of Days from Hearing Request to Initial Status Conference/Hearing)				
Program	Time Period	Average	Median	Mode
SNAP	FY 2022	32	30	30
	FY 2023 Q1	30	29	28
SNAP Emergency	FY 2022	16	12	n/a <sup>6</sup>
	FY 2023 Q1	14	11	n/a <sup>7</sup>
TANF	FY 2022	31	30	30
	FY 2023 Q1	30	30	30
Medicaid	FY 2022	32	30	30
	FY 2023 Q1	31	29	30

Department of Human Services (Number of Days from Hearing Request to Case Closure)				
Program	Time Period	Average	Median	Mode
SNAP	FY 2022	49	34	30
	FY 2023 Q1	36	33	35
SNAP Emergency <sup>8</sup>	FY 2022	27	26	n/a <sup>9</sup>
	FY 2023 Q1	12	12	n/a <sup>10</sup>
TANF	FY 2022	54	35	30
	FY 2023 Q1	35	31	28
Medicaid	FY 2022	49	35	28
	FY 2023 Q1	40	35	35

<sup>6</sup> The dataset is not large enough to support a mode.

<sup>7</sup> The dataset is not large enough to support a mode.

<sup>8</sup> In cases identified as emergencies, case closure may not be immediate. An Administrative Law Judge, according to applicable federal and local laws, may require the continuance or restoration of a Petitioner's benefits. An ALJ may keep the record open to allow the parties to reach an agreeable resolution. Every case presents its own unique facts and circumstances.

<sup>9</sup> The dataset is not large enough to support a mode.

<sup>10</sup> The dataset is not large enough to support a mode.

**f. Appeals of Department of Employment Services (DOES) unemployment benefits determinations**

<b>Unemployment Insurance Appeals Filed</b>	
FY 2022	1979
FY 2023 Q1	220

<b>Unemployment Insurance (Number of Days from Hearing Request to Initial Status Conference/Hearing)</b>			
<b>Time Period</b>	<b>Average</b>	<b>Median</b>	<b>Mode</b>
FY 2022	43	34	21
FY 2023 Q1	22	21	20

<b>Unemployment Insurance (Number of Days from Hearing Request to Case Closure)</b>			
<b>Time Period</b>	<b>Average</b>	<b>Median</b>	<b>Mode</b>
FY 2022	49	39	21
FY 2023 Q1	27	24	20

**g. Appeals initiated pursuant to the Rental Housing Act**

<b>Rental Housing Appeals Filed</b>	
FY 2022	137
FY 2023 Q1	28

<b>Rental Housing (Number of Days from Hearing Request to Initial Status Conference/Hearing)</b>			
<b>Time Period</b>	<b>Average</b>	<b>Median</b>	<b>Mode</b>
FY 2022	39	34	27
FY 2023 Q1	44	38	36

Rental Housing (Number of Days from Hearing Request to Case Closure)			
Time Period	Average	Median	Mode
FY 2022	112	103	76
FY 2023 Q1	41	33	32

43. For appeals challenging DOES unemployment benefit determinations in FY 22 and FY 23 to date, please provide:

- a. The number of appeals filed without a claim’s examiner or monetary determination;

Unemployment Insurance Appeals Filed with a Claim's Examiners Determination	
FY 2022	531
FY 2023 Q1	23

- b. The average number of days from the date of filing the appeal *without* a determination to the date of the initial hearing or status conference is held;

OAH does not track this statistic. When an appeal is filed without a determination, the Appellant is issued a More Information Order (“MIO”). The MIO requires the appellant to provide the determination. When the Appellant answers the MIO and provides the determination, the case is scheduled for a hearing. If the Appellant does not respond to the MIO, the case is dismissed.

44. Please provide the number of unemployment insurance appeals that were tolled in FY 21, FY 22, and in FY 23 to date due to the District’s public health emergency protections.

D.C. Official Code § 51-111(b) provides that an appeal of a DOES Claims Examiner’s determination must be filed within 15 days of the day the determination is sent to the parties. The appeal deadline addresses whether OAH has jurisdiction to hear an appeal. Because it is ostensibly a claims processing rule, ALJs may consider the reasons that an appeal is filed after the 15-day deadline and may extend the deadline for either good cause or excusable neglect. Jurisdiction over a late-filed appeal is a threshold issue that is addressed at the commencement of a hearing.

Due to the declaration of a Public Health Emergency in March 2020, then CALJ Eugene Adams, by the authority granted to him by Mayor Muriel Bowser, issued an Administrative Order tolling, suspending, or extending the deadline for filing unemployment insurance appeals until 30 days after the end of the Public Health Emergency. CALJ Adams and later CALJ Currie issued subsequent Administrative Orders through 2020 and 2021, each of which addressed among other things the filing deadline for unemployment insurance appeals. CALJ Currie issued the last Administrative Order on July 7, 2021, which reflected

that the Public Health Emergency would end on July 25, 2021, and as a result, the tolling, suspension, or extension of filing deadlines would expire as of August 24, 2021. However, D.C. Council enacted several emergency and non-emergency provisions extending the filing deadline for any unemployment insurance appeal beyond August 24. The latest legislation, D.C. Act 24-201, extended the deadline for filing unemployment insurance appeals to February 4, 2022.

While the issue of jurisdiction over an untimely unemployment insurance appeal is raised at the commencement of evidentiary hearings, and the parties are given notice of that issue in the order scheduling a hearing, OAH does not collect this data point in its case management system in a manner that is quantifiable and therefore is unable to provide the number of late-filed appeals in which the filing deadline was tolled under either an Administrative Order or D.C. Council legislation since the beginning of the pandemic.

**45. What steps has OAH taken on, in coordination with DOES, to improve the unemployment appeals process?**

OAH has taken the following steps to improve the unemployment appeals process:

- OAH holds quarterly Unemployment Insurance stakeholder meetings, where DOES is invited;
- The UI PALJ communicates with DOES about trends in cases;
- When OAH implemented a claims fraud docket to handle the large volume of cases where the appellant alleged the claims were fraudulent, OAH coordinated with the DOES appeals representatives to staff those hearings. This fraud docket resulted in OAH successfully resolving large numbers of cases; and
- When hearing cases involving ineligibility decision, ALJs will remand cases to DOES to consider new information brought for the first time at the appeal hearing at the request of DOES.

**46. Regarding Court of Appeals review of the Office’s decisions, please provide the mean, median, and mode in FY 22 and in FY 23, to date, for:**

- a. The number of days from the date on which the Office receives a Court of Appeals order to produce an administrative hearing record; and**
- b. The number of days from the date on which the Office transmits the record to the Court of Appeals.**

Please refer to the table below:

	<b>FY 2022</b>	<b>FY 2023 Q1</b>
Mean	26.87 days	34.57 days
Median	22 days	35 days
Mode	15 days	No Mode



**47. How many of the Office’s decisions were appealed to another tribunal in FY 22 and FY 23, to date, and of those, how many have been upheld and overturned?**

Please refer to the table below:

	<b>FY 2022</b>	<b>FY 2023 Q1</b>
Total Appeals	99	28
Upheld	87	23
Reversed or Remanded	12	5

LITIGANT ACCESS

**48. Please provide an update on the Office’s efforts during FY 22 and FY 23 to date towards completion of the public portal for searchable Final Orders. Please also describe whether portal will include the following features, once completed:**

- a. Final orders from all jurisdictions under OAH**
- b. Final orders dating back to 2012**
- c. Full text search**
- d. Natural language or Boolean search capabilities**

During FY 2022 and during FY 2023 to date, OAH has taken the following steps toward publishing a searchable database of Final Orders:

- OAH researched other searchable databases of orders both locally from other D.C. government agencies and nationally from other administrative central hearing panels and judicial branch courts to review possible solutions.
- OAH communicated with OCTO to determine whether it could create the database and search function. After thorough discussions, OAH determined that OCTO’s proposed solutions did not conform with OAH requirements.
- OAH investigated other vendors; sought proposals; and scheduled demonstrations of those proposed solutions.
- OAH is now engaged in the procurement process to obtain a vendor for this initiative.

Internally, OAH has begun to identify the process necessary for creating the database. This process is complicated by the wide variety of case types OAH hears: some case types contain confidential information – or are entirely confidential – and those final orders must be redacted or excluded from the database. As OAH has not redacted final orders previously on a broad scale, the agency must identify which case types must be redacted; what information must be redacted; and any case types that must be excluded completely from the database. Once those parameters have been determined, OAH must determine the method by which the orders will be redacted and how that additional workload will be managed by the agency.

OAH expects that the database may not contain final orders from all jurisdictions because some case types may be excluded due to confidentiality issues.

OAH intends that the search function will include full text search and Boolean capabilities, but not natural language search.

Since 2016, OAH has issued over 100,000 final orders, none of which have been redacted. OAH currently does not have the manpower to redact previously-issued orders and the agency expects to initiate this project with new orders moving forward from a date certain.

**49. Please list all fees assessed by the Office, and the amount collected from each fee in FY 22 and FY 23, to date.**

OAH collects fees for paper copies, hearing recordings, and reproduction of documents for FOIA requests. In FY 2022 and FY 2023, to date, the only fees collected by OAH was for hearing recordings.

Total Fees Collected for Hearing Recordings	
FY 2022	\$510.00
FY 2023 Q1	\$80.00

**50. Regarding the Office’s transition to remote operations, please provide:**

**a. The number of telephonic WebEx hearings held in FY 22 and in FY 23, to date.**

Webex Events	
FY 2022	FY 2023 Q1
8474	2231

**b. The number of video WebEx hearings held in FY 22 and in FY 23 to date; and**

OAH does not collect this data (video versus telephonic hearings) in its case management system. However, ALJs report that there were 18 hearings held by videoconference in FY 22 and 7 in the first quarter of FY 22.

**c. The number of in-person hearings requested by any party in FY 22 and in FY 23, to date.**

In Person Events	
FY 2022	FY 2023 Q1
96	25

**51. As the District emerges from the public health emergency, what emergency policies or operating procedures will remain in place?**

In response to the public health emergency declared in March 2020, OAH modified agency procedures to accommodate working remotely and to provide virtual hearings where possible. The major changes to our operations and procedures included:

- Moving from predominantly in-person hearings to 100% remote hearings utilizing the WebEx platform;
- Maintain hearing records digitally instead of in paper; and
- Remote work.

Looking forward, OAH is adapting our policies and standard practices as a result of the lessons learned during the pandemic. In particular:

- **Electronic file records:** OAH continues to create electronic file records and is working with the Office of the Secretary/Office of Public Records to update the OAH Records Retention Policy to allow the agency to create and retain all hearing records in a digital format only.
- **Hearings:** In the second and third quarters of FY2022, OAH sought input from stakeholders, reviewed national expert reports and analyses, and analyzed internal data to determine how best to utilize the three methods of hearings (in-person, video, and telephone) in order to provide the widest possible access to all communities the agency serves. Common to all recommendations was the preference that OAH continue to offer primarily remote telephone hearings with the flexibility for parties to request in-person or video hearings.

Moving forward, OAH is committed to evaluate practices and operating procedures on a regular basis and adapt where necessary in order to continue to provide the widest possible access to all communities the agency serves.

OAH RESOURCE CENTER

**52. Regarding the Office’s Resource Center, please provide:**

- a. The total number of inquiries or requests for assistance received in FY 22 and FY 23 to date.**

In FY 2022 and FY 2023 to date, the Resource Center received 3,823 phone calls and about 350 emails.

- b. The total number of FTEs supporting the Resource Center during FY 22 and FY 23 to date; and**

One Attorney-Advisor has been the primary Resource Center service provider in addition to his routine duties. Supporting this role, OAH judicial law clerks provide part-time direct service support under the Attorney Advisor’s training and

supervision, as they are available to do so. A Program Analyst has also provided administrative support to the Resource Center.

**c. A summary of any efforts undertaken by the Office in FY 22 or planned in FY 23 to the improve the reach and/or effectiveness of the Resource Center.**

OAH hired a Program Analyst in FY 2022 to assist with Resource Center operations. To further increase short-term staff capacity, OAH trained and utilized its judicial law clerks and interns to assist with the creation of Resource Center materials and delivery of Resource Center services.

In FY 2022, OAH worked with OCTO on a comprehensive website redesign project, with an emphasis on accessibility. The Resource Center has continued to work on a comprehensive review of forms available to litigants to make them more user-friendly and improve accessibility of the forms on the redesigned website, which launched at the start of FY 2023.

As OAH looks to expand the reach of the Resource Center, it will continue to collaborate with the Access to Justice Commission and other stakeholders to facilitate Resource Center outreach, develop self-help materials, and implement efficient referral processes. Future staffing efforts will include resuming OAH's partnership with local law schools to provide law students with the opportunity to work in the Resource Center and gain legal experience while benefitting the community.

## LANGUAGE ACCESS

**53. Regarding the Office's Language Access Office, please provide:**

**a. A summary of any changes that the Office has undertaken in FY 22 and in FY 23, to date, to Language Access policies or practices; and**

OAH submitted its Biennial Language Access Plan (BLAP) for FYs 2023 and 2024 in August 2022. The BLAP establishes clear goals and strategies to provide public services, programs, and activities for residents of the District of Columbia with limited or no English proficiency. These goals include, but are not limited to, training of agency staff; providing translation of legal documents, vital documents, flyers, brochures, website, and interpretation services; recording feedback of translation and interpretation services; providing taglines available in 27 languages in legal documents affecting an individual's legal rights; and informing the individuals about their right to request that OAH provide language access resources.

In FY 2022, OAH created a survey to gather information about the agency's employees' language skills, with the goal of developing a comprehensive list of all languages spoken at OAH to enable staff members to contribute meaningfully to OAH's language access efforts. Further, the OAH Language Access Coordinator has worked to ensure that OAH communicates with the Mayor's Constituency

Offices to increase the number of bilingual candidates applying for vacancies at OAH.

OAH currently includes tag lines in its legal documents for identified Limited English Proficient (LEP)/ Non-English Proficient (NEP) individuals. The taglines advise LEP/NEP individuals that the attached document may affect that individual's legal rights, and the individual has a right to have the document translated into his/her native language. Additionally, OAH written communications include a language insert in 6 different languages explaining how to obtain a translation for the attached document. OAH is currently working on updating the language insert to reflect the agency's hours of operations and information about the Resource Center.

At the start of FY 2023, OAH's newly designed website went live. The new website has expanded and increased accessibility and language access support for the LEP/NEP community. All of the forms on OAH's website are available in Spanish and Amharic. The contents of OAH's website are also available in Amharic and Spanish.

OAH is also developing a new online customer survey to measure the quality of the customer experience and the hearing experience. The hearing experience survey allows participants to provide information about their experience with a court interpreter. The survey collects data about the language requested and the customer's satisfaction with the quality of the interpretation. This information, in conjunction with the records administered by the Customer Service Center and the Language Access Coordinator, helps OAH track any complaints and potential problems with its language access resources. When the new survey is available, customers will have access to the survey on OAH's website. The survey will also be available in Spanish and Amharic to improve the data collection.

OAH completed the first draft of the bench card regarding language access services for judges on how to work with interpreters and shared it with the OAH Legal Assistance Network for feedback and review, which OAH should receive by February 2023.

**b. A listing of the five most commonly used forms and the languages in which they are available.**

Below are the most used forms in 2022 that customers filled out in their native languages. All forms are available in Amharic and Spanish.

- Unemployment Insurance Appeal Form;
- Request to Change the Final Order;
- Request for a New Hearing;
- Filing Cover Sheet (“Certificate of Service”); and
- Blank Submission Form.

ALJ STAFFING AND WORKLOAD

54. For each of the agencies and provisions of law within the Office’s jurisdiction as listed in D.C. Code § 2-1831.03(a)-(c), please provide the number of cases that were adjudicated and closed by the Office in FY 22 and FY 23, to date, and the number of cases currently open.

<b>Cases Closed by Fiscal Year</b>		
<b>Agency</b>	<b>FY 2022</b>	<b>FY 2023 Q1</b>
DBH	4	1
DCPS	162	55
DCRA	5155	1567
DDOT	231	60
DDS	11	4
DFHV	15	0
DHCD	111	37
DHCF	338	69
DHS-Public Benefits	1308	360
DHS-SHEL	277	129
DOB	n/a	4
DOEE	211	164
DOES-OPFL	34	1
DOES-OWH	50	9
DOES-UI	2688	241
DOH	581	176
DPW	7815	926
DSLBD	3	0
FEMS	14	5
HBX	19	4
MPD	58	9
OAG	26	2
OP	33	22
ORM-PSWC	69	23
OSSE	9	3
OTR	37	7
OTS	1	0
<b>Total</b>	<b>19260</b>	<b>3878</b>

As of the end of FY 2023 Q1, there were 18,661 open cases.

**55. Please provide the average number of cases assigned to each Administrative Law Judge in FY 22 and FY 23, to date. How does OAH determine the maximum caseload for ALJs?**

Average Number of Cases Assigned per ALJ	
FY 2022	255
FY 2023 Q1	69

At this time, OAH does not have a specific method for determining the maximum caseload for ALJs. However, starting in FY 2021, OAH began formally evaluating its historical caseloads and staffing levels compared with current trends to evaluate the efficiency of the agency overall in relation to those data points. That evaluation is currently ongoing.

Over the past few years, OAH has been designated as the appeals tribunal for several new case types, without a commensurate increase in ALJs and administrative support staff members to assist with the workflow. Additionally, the agency is currently going through a digital transformation, and this period of integrating new technology into business processes is highly sensitive and requires additional workload for all staff during the transition and training period.

Based upon the data points discovered through historical research, at the most basic level, OAH knows that the agency is not appropriately staffed for its caseload because of the following issues:

- Increased case backlog in certain jurisdictions;
- Increased overtime levels;
- Increased reliance on temporary contract worker;
- Assigned tasks are not completed or they are completed later than expected;
- Support staff members are assigned tasks outside of their normal job functions to maintain efficient agency operation;
- ALJs and support staff members are temporarily assigned to other clusters/jurisdictions to assist with workload; and
- Increased staff turnover due to high workload, stress, and/or fatigue.

More specifically, some OAH staff members are assigned an extremely high, and at times unreasonable, number of cases to process, based on their assigned jurisdiction(s). This has resulted in multiple coworkers being assigned to assist that employee, which in turn precludes them from efficiently executing their essential job functions.

In response to reporting the results of our internal historical research, Council increased the agency's FY 2023 budget by \$200,000 in order to contract with a third-party vendor to evaluate workload and establish baseline measures across the entire agency, including

determining maximum caseload for ALJs. OAH is currently working through the procurement process to begin that independent benchmark assessment.

**56. How large is OAH’s case backlog in each impacted jurisdiction?**

Jurisdiction	Cases
Department of Consumer and Regulatory Affairs	5715
Department of Public Works	7680

The backlogs in the Department of Consumer and Regulatory Affairs (DCRA) and Department of Public Works (DPW) are comprised almost exclusively of cases where those agencies have filed Notices of Infraction or Notices of Violation, but no answer has been received from the respondent, making those cases ripe for default. OAH has allocated significant staff resources to addressing this backlog in both the DCRA and DPW jurisdictions, and as a result, the backlogs are lessening.

**a. How does OAH measure its case backlog?**

OAH determines that a backlog exists when the number of cases and/or the rate at which cases are filed in a particular jurisdiction exceeds the capacity of staff to process or ALJs to adjudicate those cases within applicable statutory deadlines or, absent specific statutory deadlines, within timelines identified in the agency’s KPIs.

**b. What steps has OAH taken to address its backlog in cases in FY 21 and FY 22, to date?**

OAH has reassigned personnel – both ALJs and support staff – to process and adjudicate appeals in jurisdictions with backlogs. The CALJ reviews monthly with each Principal ALJ and the Clerk’s Office the status of appeals in that PALJ’s cluster to continually evaluate the need for, and reassign where necessary, resources to address current backlogs and work to prevent future backlogs from developing. OAH continues to evaluate and update internal processes to more efficiently process, track, and adjudicate cases in all jurisdictions, focusing especially on jurisdictions currently experiencing backlogs.

**c. How has OAH utilized the additional flexibility the Council provided with regard to Paid Family Leave funding to address the case backlog in FY 22, to date? How does the agency plan to use this flexibility in the remainder of FY 22?**

While the PFL-funded FTEs are primarily assigned to process PFL appeals, through FY 2022, those positions were also assigned to process UI appeals in order to address the backlog that arose in those appeals because of the sharp increase in UI appeals filed during the COVID-19 pandemic. Once the UI backlog was eliminated, the PFL-funded FTEs were assigned to process cases in other jurisdictions that are experiencing backlogs. Specifically, in the first quarter of FY 2023, the PFL-funded



positions have been assigned to assist with processing cases filed by DCRA, DOB, and DLCP.

Moving forward, OAH plans to continue to utilize the flexibility afforded the agency by Council with respect to the PFL-funded positions in this same way – to allocate those resources to address backlogs created by increases in case filings as necessary.

**d. What outstanding barriers exist to reducing the case backlog?**

During FY 2022, OAH reallocated staff and updated internal processes specifically to address existing backlogs and to attempt to prevent new backlogs from developing. Utilizing these methods allowed OAH to eliminate the backlog in UI cases, but at current staffing levels, the process of addressing and eliminating other backlogs may take some time. Outstanding barriers for OAH to address the current backlogs include staffing levels; staffing vacancies and staff turnover; and sufficient time to adjudicate backlogged cases. In addition, outstanding barriers for OAH to prevent future backlogs include: the ability to anticipate when increases in case filings in a particular jurisdiction may occur so the agency can reallocate resources in advance; the ability to ensure that staffing levels are increased consistent with any increase in the types of cases OAH is assigned to hear through legislation or by MOU; and insufficient staffing levels to manage any resulting increase in caseload.

**57. Is OAH appropriately staffed for its caseload? What steps has OAH taken to determine the level of appropriate staffing needed to address its workflow?**

OAH is currently surveying vendors to perform a workload and workflow review of OAH operations to determine if the agency is properly staffed. (See Response to Question Number 55.)

**58. Please provide an update on the completion of OAH’s staffing benchmark study funded in the FY 23 budget.**

This action is in process. OAH is creating a Scope of Work to provide to the Office of Contracting and Procurement (OCP) to initiate the procurement process. The agency is aiming for a vendor selection by the end of February 2023 and a start-work date in the first half of March 2023. OAH’s goal is to have the study completed by the end of FY 2023.