

## OFFICE OF ADMINISTRATIVE HEARINGS

### General Information

Agency Name  
Office of Administrative Hearings

Director's name and official title  
Deborah A. Baumer, Director

Agency Contact person  
Lynne M. Kranz, Office Manager, Lkranz@state.wy.us

Agency Contact phone  
(307) 777-6660

Street Address  
2020 Carey Avenue, 5<sup>th</sup> Floor  
Cheyenne, Wyoming 82001

Mailing Address  
State of Wyoming  
Office of Administrative Hearings  
Cheyenne, Wyoming 82002-0270

Web address (URL)  
<http://oah.state.wy.us>

Other Locations (Street addresses not required.)  
Casper, Evanston, Lander, Powell and Worland

Statutory References  
Wyo. Stat. Ann. § 9-2-1019(a)  
Wyo. Stat. Ann. §§ 9-2-2201 through 9-2-2203  
Wyo. Stat. Ann. § 27-14-602  
Wyo. Stat. Ann. § 31-7-105

Clients Served (Not the number of clients served, just the type of clients.)  
Wyoming residents or guests who have disputes with state agencies  
All state agencies required by law to provide formal hearings, primarily the Department of  
Employment and the Department of Transportation  
Hearing participants  
Legal counsel

Budget Information (Expenditures for the FY08)  
\$1,350,580

**Wyoming Office of Administrative Hearings Annual Report  
FY2008 (July 1, 2007 through June 30, 2008)**

**Public Benefit or Wyoming Quality of Life Result:** Wyoming state government is a responsible steward of state assets and effectively responds to the needs of residents and guests.

**Contribution to Wyoming Quality of Life:** The Office of Administrative Hearings (OAH) contributes to the Wyoming quality of life by presiding over administrative hearings and assuring due process in disputes between Wyoming's residents or guests and state agencies.

The OAH acts as a responsible steward of state assets by fairly deciding many different types of disputes over Wyoming's benefit programs. Examples include, but are not limited to workers' compensation benefits, food stamps and other welfare benefits, nursing home waiver benefits, game and fish damage claims, and state employee's group insurance benefits.

Conversely, the OAH also decides disputes regarding actions taken by state agencies against its residents and guests. Hearings are conducted by the OAH for driver's license citations, OSHA citations, state employee personnel disciplinary actions, child and adult abuse central registry determinations, professional licensing boards' disciplinary and licensure actions, environmental quality disputes and other disputes as referred by state agencies.

The OAH strives to provide a timely and fair hearing process in response to requests for hearings from Wyoming's residents and guests in disputes with state agencies. The OAH also strongly encourages alternative dispute resolution such as mediation and arbitration to resolve disputes. OAH decisions that are both high in quality and completed in a timely fashion contribute to the state's overall prosperity by enhancing relationships between Wyoming's residents or guests and their state government.

**Basic Facts:** The OAH employs four full-time Hearing Examiners, seven part-time contract Hearing Examiners and five support staff. The OAH biennial budget request for FY 2007 and FY 2008 is \$2,717,132. The OAH budget is not directly funded by general funds, but instead is funded 55 percent by the Department of Employment and 45 percent by the Department of Transportation. The OAH is statutorily mandated to provide contested case hearing services for these two agencies and their caseloads are the OAH's two largest caseloads.

The sole function of the OAH is to conduct fair and impartial contested case hearings statewide in disputes between Wyoming's residents or guests and state governmental agencies. The OAH is uniquely situated to act as an independent, impartial hearing authority because it is a separate operating agency with no agency interest in the substantive issues presented in any of the cases it hears. The parties are therefore assured a neutral process that will favor neither side.

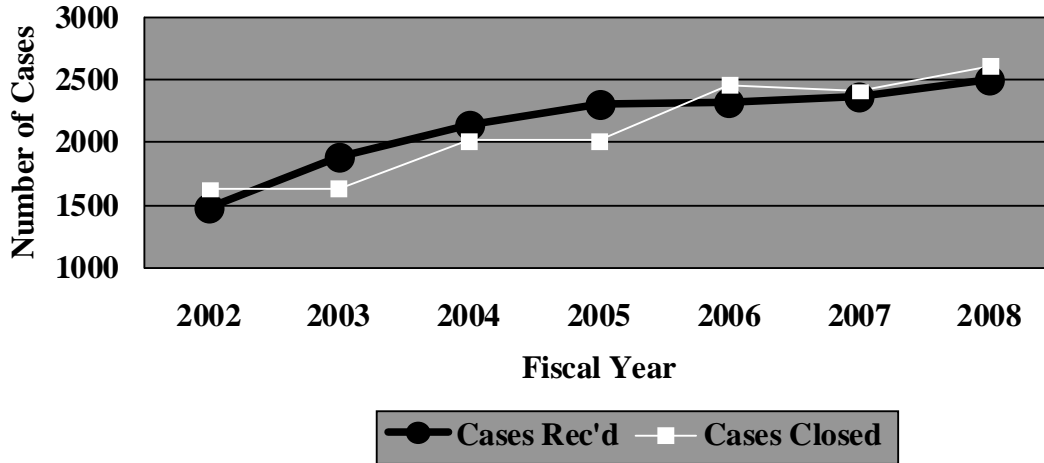
The OAH is only statutorily required to hear contested cases for the Department of Employment and for the Department of Transportation because these two agencies provide our funding. However, the OAH also has statutory authority to hear any dispute between any other state agency/board and the public that is served by that state agency/board. The five categories of cases where the OAH receives contested case referrals across the entire State of Wyoming follow:

1. Most Workers' Compensation contested cases for the Department of Employment in accordance with W.S. 27-14-602 and most Small Claims Workers' Compensation contested cases, where the amount in controversy is less than \$2,000 and compensability of the injury is not an issue, for the Department of Employment according to W.S. 27-14-602(b)(i).
2. All Driver's License actions involving suspension, restriction or cancellation of driving privileges for the Department of Transportation pursuant to W.S. 31-7-105.
3. Any other state agency or board dispute where a request is made for the OAH to provide hearing services pursuant to the authority granted to the OAH by W.S. 9-2-2202(b). These cases are designated as "All Other" cases throughout this plan. Various state boards and agencies such as the Boards of Nursing, Pharmacy, Architects, Engineers, Peace Officers, Mental Health and other Professional Licensing Boards, the Office of State Lands and Investments, the OSHA Division of the Department of Employment, the Department of Education and the Department of Revenue have all requested and received OAH hearing services. The OAH also currently hears all Medical Review Panel cases, Wyoming Employees' Group Insurance disputes and Department of Health Medicaid Waiver disputes. All Department of Family Services' cases concerning entitlement to welfare benefits and abuse/neglect central registry cases are heard by the OAH pursuant to a memorandum of understanding. The newest agencies to request hearing services are the Environmental Quality Council and the Industrial Siting Council.
4. All disciplinary suspension, dismissal or reduction in force appeals involving a permanent state employee where the parties are unable to agree on a presiding officer for all state agencies according to W.S. 9-2-1019(a). These cases are also part of the "All Other" category.
5. Mediation and arbitration services are also being requested by agencies such as the Department of Employment and the Game and Fish Department.

Every Wyoming resident or guest is a potential OAH customer. The OAH estimates that at least 5,000 citizens will be served during the plan period.

**Performance:**

**Cases Received and Closed by OAH**



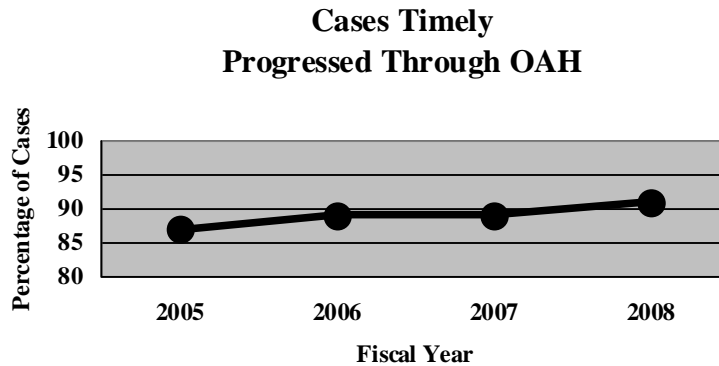
**Story behind the performance plotted above:** The OAH has experienced a 69 percent increase in the number of cases received over the past seven fiscal years. Causes for the increased caseloads include Wyoming’s growing industry and population, changes in the driver’s license statutes and the trend for all state agencies/boards to use the OAH rather than hiring private contract attorneys to provide Hearing Examiner services for their contested cases.

The OAH has always endeavored to close as many cases as it receives each year so that no backlog is created. Two new full-time OAH employees, one Hearing Examiner and one staff member, were added in FY 2007 to help manage these increases and help the OAH keep closing as many cases as it receives.

**What has been accomplished?** For the 2nd time in an annual report, the OAH has graphed both received cases and closed cases on the same trend line shown above. The OAH compares the number of received cases to the number of closed cases to gauge how successful the OAH is in keeping up with its current caseload. This visual tool reflects the OAH’s inability to close more cases than received in FYs 2003, 2004 and 2005 which contributed to the OAH’s current backlog of cases.

To help reduce the OAH’s backlog, all Hearing Examiners have been focusing on closing their oldest cases. As a result, the OAH was able to close 111 more cases during FY 2008 than it received. The two additional employees hired in FY 2007, along with all OAH employees and contractors, contributed significantly to the OAH’s overall effort to reduce the number of backlogged cases as discussed in the next performance measure entitled “Cases Timely Progressed Through OAH.”

**Performance:**



**Story behind the performance plotted above:** In order to continue providing excellent customer service to all parties involved, the OAH has made every effort to adhere to established maximum time guidelines from start to finish for each of the four types of cases referred.

- All Other – one year/365 days
- Driver’s License cases - 4 months/120 days
- Small Claims cases - 75-days
- Workers’ Compensation cases – one year/365 days

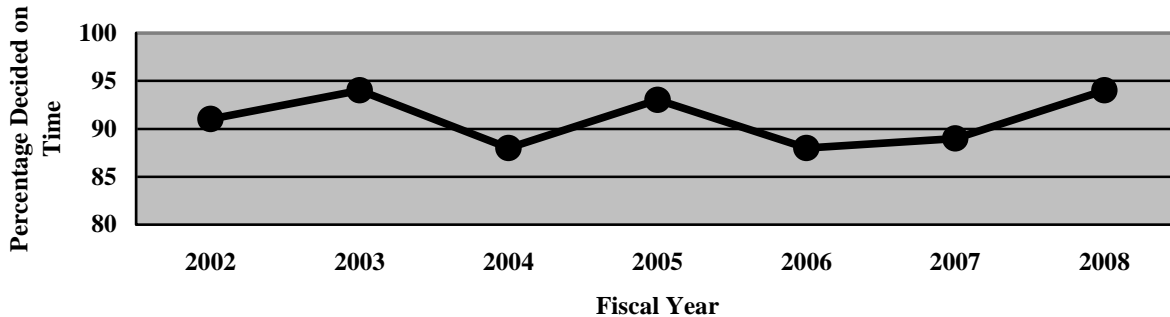
For clarification, the statistics used in this performance measure are taken as of June 30, the last day of each fiscal year measured.

In FY 2006 and FY 2007, the OAH’s performance in this area remained steady at 89 percent. In FY 2008, the OAH increased that percentage to 91 percent. Workers’ Compensation cases, which are usually more complicated than other cases, are still the majority of cases exceeding maximum time guidelines.

**What has been accomplished?** The OAH analyzed the data in this performance measure during the past year and the OAH’s increased supervision and limiting requests for continuances of hearings paid off by increasing the number of cases progressing through the OAH in a timely fashion. In Workers’ Compensation cases, Hearing Examiners paid more attention to the one-year deadline when managing their caseloads. The OAH also updated its rules by raising the hourly rate received by employee’s attorneys in Workers’ Compensation cases. By attracting more attorneys in the Workers’ Compensation area, it is hoped that these cases can progress through the OAH more expeditiously. The OAH also reorganized its two counties with the largest backlogs, Sweetwater County and Natrona County, so that the Cheyenne OAH now handles these cases. The Governor and Legislature approved the hiring of a new full-time Hearing Examiner in Cheyenne on July 1, 2008, to help reduce past backlogs.

**Performance:**

**Timeliness of OAH Decisions**



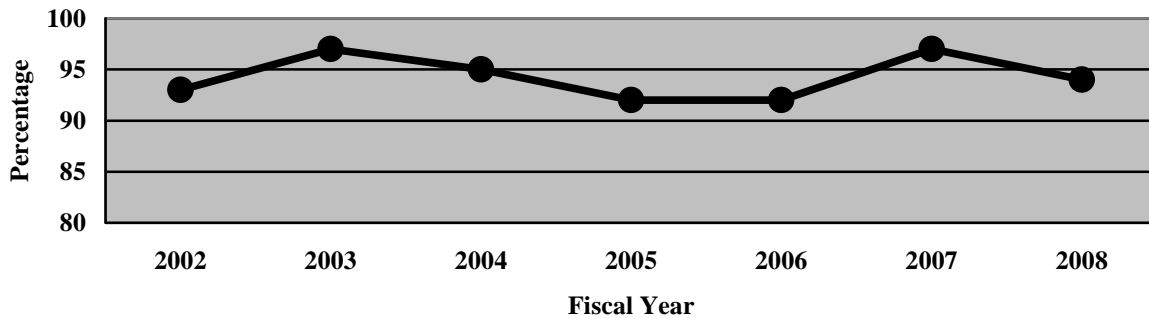
**Story behind the performance plotted above:** The OAH tracks the length of time from the record closed date (usually the hearing date) to the final decision date. Pursuant to W.S. 27-14-602(b)(ii), the OAH must render written decisions, to include findings of fact and conclusions of law, in Workers' Compensation cases within 30 days after the close of the record. In all remaining types of cases, the OAH's self-imposed deadline is that decisions must be entered within a maximum of 60 days after the close of the record.

Based upon the decline in performance in FY 2004, the OAH more closely supervised all Contract Hearing Examiners during FY 2005 to improve the percentage of cases decided on time. Timeliness decreased in FY 2006 due to performance problems with two Contract Hearing Examiners. In FY 2007, timeliness starts to show improvement with more consistent supervision and changes in personnel. In FY 2008, timeliness improves by five percentage points to 94 percent.

**What has been accomplished?** To accomplish this increase to 94 percent in timeliness of decisions, the OAH closely monitored its caseloads among Contract Hearing Examiners and the Cheyenne home office during FY 2008 to insure equal distribution of incoming cases so that no Hearing Examiner would be overwhelmed and so that his/her timeliness of written decisions could continue to grow. Monitoring timeliness among Contract Hearing Examiner decisions has always been difficult and is always an issue that arises after the fact. However, due to an increase in supervision and reorganization of Contract Hearing Examiners, the OAH has reduced the number of untimely final decisions. The increase in timeliness of decisions is a performance measure OAH will continue to strive to improve.

**Performance:**

**Fairness of OAH Process From Surveys**



**Story behind the performance plotted above:** The OAH conducts annual surveys to help measure overall performance with fairness being one of the categories surveyed. The OAH's fairness rating from those surveys has consistently been above 90 percent. The survey results clearly show that the OAH has been successful in giving parties fair and impartial hearings.

**What has been accomplished?** The OAH has once again been successful in providing Wyoming's residents and/or guests with fair and impartial hearings. Attorneys who represented parties before the OAH were asked to complete the OAH's annual survey in FY 2008. Despite the fact that one party must lose at an OAH hearing, our fairness rating dropped only three percentage points down to 94 percent for FY 2008.

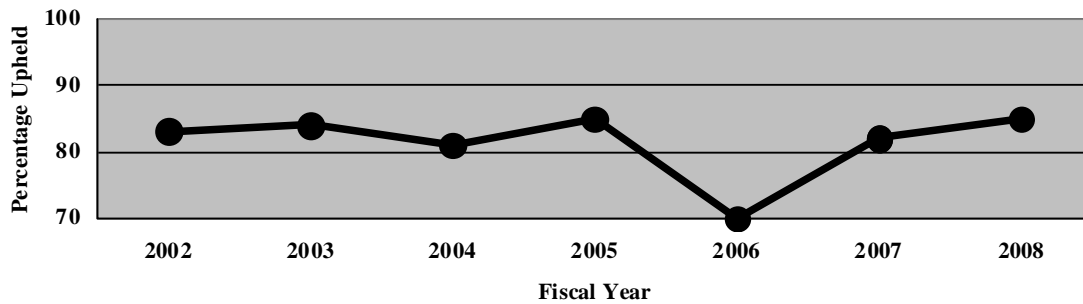
One factor contributing to the OAH's high fairness ratings is that all Hearing Examiners strive toward high standards of judicial conduct and demeanor when presiding over OAH contested case proceedings.

To keep valuable experience in the OAH, all but one of the previous Contract Hearing Examiners were retained by renegotiating their contracts for FY 2009.

This performance measure has also been positively affected by continuing with the new format of its written decisions discussed in detail in the next performance measure entitled "OAH Decisions Upheld on Appeal." OAH survey results reflect both positive and negative feedback which gives the OAH new ideas on how to improve customer service and day-to-day operation.

**Performance:**

**OAH Decisions Upheld on Appeal**



**Story behind the performance plotted above:** A strong affirmance percentage is an important factor in Wyoming's residents and guests receiving fair hearings because they are assured that their disputes with state agencies/boards are being heard by well-qualified, educated and experienced Hearing Examiners who make sound decisions. In FY 2006, the OAH was unable to maintain the appeal rating above 80 percent as has been consistently accomplished in past years. A part of this decline may be attributed to both the turnover and poor performance of two Contract Hearing Examiners. In FY 2007, the OAH was able to improve the affirmance percentage back up to over 80 percent and in FY 2008, our affirmance rating is even higher at 85 percent. In other words, the higher courts agreed with OAH decisions when they are asked to review them 85 percent of the time.

**What has been accomplished.** The OAH continues to use the improved format of its written decisions which includes separate and distinct sections entitled: jurisdiction; statement of the case; issues and contentions; findings of fact; conclusions of law – including principles of law and application of principles of law; and order. The OAH believes this improved decision format has again contributed to the OAH's improved rating and will continue to produce higher affirmance ratings in the future.

At its April 2008 semi-annual meeting, the OAH Hearing Examiners received training in ethics and reviewed the Model Code of Judicial Conduct for State Administrative Law Judges, a publication by the American Bar Association. New Supreme Court decisions were also discussed at the semi-annual meeting which is standard at every meeting to keep Hearing Examiners current and to increase statewide consistency with OAH decisions.

