**Washington State**

**Office of**

**Administrative Hearings**

# Fee Structure, Billing Methodology, Productivity, and Organizational Structure Review

## Follow-up Study

### February – June 2022 Review Period

**Stellar** Associates.LLC

June 30, 2022

Lorraine Lee, Chief Administrative Law Judge
Office of Administrative Hearings
2420 Bristol Court SW
Olympia, WA 98504

### OAH Fee Structure, Billing Methodology, Productivity, and Organizational Structure Review Follow-up Study

Dear Ms. Lee:

The Washington State Office of Administrative Hearings (OAH) contracted with Stellar Associates, LLC in late December 2018 to conduct a review of OAH's current fee structure, billing methodology, productivity, and organizational structure, including the research of promising practices and other states' panel adjudicatory agencies, looking for potential improvements to increase efficiency and/or the structure of the agency. In February 2022, OAH contracted with us to provide OAH with a follow-up assessment focusing on the following:

- A status review of all recommendations made in June 2019 and verify whether they are complete, complete as modified, in progress, not yet started, or not accepted.
- Any new recommendations that become apparent based on this review.

The attached report is based upon a review of agency documentation, processes, and practices as well as stakeholder interviews. The focus of this follow-up assessment is on stakeholder relationships, roles and responsibilities, organizational structure changes, onboarding and training processes, and communication.

Our assessment of OAH is based on our professional experience, judgment, and performance review methodology. It is intended to provide valuable independent insight into the progress being made on the 2019 OAH Fee Structure, Billing, Productivity, and Organizational Structure Review which contained 23 conclusions and 63 recommendations with 11 sub-recommendations.

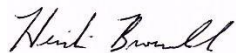After we completed our assessment, we compared our results with the agency's latest self-assessment.
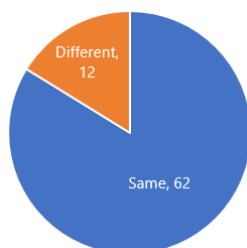


- We assessed 62 recommendations the same as the agency and assessed 12 recommendations differently.
- For seven recommendations, we found the agency to have made more progress than the agency's self-assessment.
- For five recommendations, we found the agency to have made less progress than the agency's self-assessment.

This report also includes eight new recommendations.

- **New Recommendation #1.3** - *Implement responsive web design to allow appellants to access the portal from a mobile device. This will increase the accessibility of the appellant portal to appellants who only have internet access through a mobile device.*
- **New Recommendation #9.6** - *Adding organizational change management expertise to the team would help close the awareness, desire, knowledge, ability, and reinforcement gaps that are difficult to close without help.*
- **New Recommendation #14.3** - *Evaluate staffing across caseloads so staff supporting each caseload have similar opportunities to participate in initiatives and improve their processes.*
- **New Recommendation #19.8** - *Consider using the first supplemental budget process each biennium to ensure OAH rates and forecasted caseload estimates reflect projected costs.*
- **New Recommendation #20.2** - *Work with OFM to amend RCW 34.12.140 and RCW 34.12.150 to reflect OAH's current billing methodology.*
- **New Recommendation #22.2** - *Work with OFM to maintain a sustainable working capital balance in the 2023-25 biennial budget cycle.*
- **New Recommendation #23.9** - *In place of 23.5, OAH should review and evaluate strategies to increase efficiency in scheduling and using interpreters.*
- **New Recommendation #23.10** - *In place of 23.5, OAH should review and understand the reasons behind defaults that may lead to more efficient use of ALJ and staff time.*

It has been an honor and a pleasure to work with all the agency staff and stakeholders in preparing this report. Please contact us at 360.515.9200 or via email if you have any questions or comments. We will be available for any requested briefings.

Sincerely,

Heidi Brownell, Principal
Stellar Associates, LLC

cc:     OAH Executive Management Team
        Cheri Keller, Office of Financial Management
        Tyler Lentz, Office of Financial Management
        Sheri Sawyer, Office of Financial Management

# A. Table of Contents

# B. INTRODUCTION

***2019 OAH Fee Structure, Billing Methodology, Productivity, and Organizational Structure Review***

In the 2018 supplemental operating budget, the Washington State Office of Administrative Hearings (OAH) received funding to conduct a review in collaboration with the Office of Financial Management (OFM) on the fee structure, billing methodology, and assumptions about productivity which impact billing and fee structure.

OAH contracted with Stellar Associates, LLC (Stellar) in late December 2018 to conduct this review of the promising practices for billing and fee structures as well as organizational structures and processes that support efficiencies.

The OAH Fee Structure, Billing, Productivity, and Organizational Structure Review Report, finalized in June 2019, contained 23 conclusions along with 63 recommendations offered as actionable ways to improve overall agency performance.

The agency's background and history are available in the [original report](#).

***Objectives of the 2022 Follow-up Study***

In February 2022, OAH contracted with Stellar to provide OAH with a follow-up assessment focusing on the following:

- An assessment of the progress implementing all recommendations made in June 2019 and verification of whether they are complete, complete as modified, in progress, not yet started, or not accepted.
- Any new recommendations that surface during this review.

The focus and structure of the follow-up study is based on each of the recommendations made and may include roles and responsibilities, organizational structure, business processes, stakeholder relationships, and communication.

***Follow-Up Study Timeline***

The follow-up study was conducted over a five-month period in fiscal year (FY) 2022, resulting in three years between reports.

*What has changed since 2019?*

In the 2019 report, it was noted that OAH had not implemented several of the same recommendations made in previous studies. The response to the "action plan" approach to recommendations in the 2019 report, was marked. OAH has successfully completed many of the recommendations made in the 2019 review and several more are underway.

**Recommendation Status**
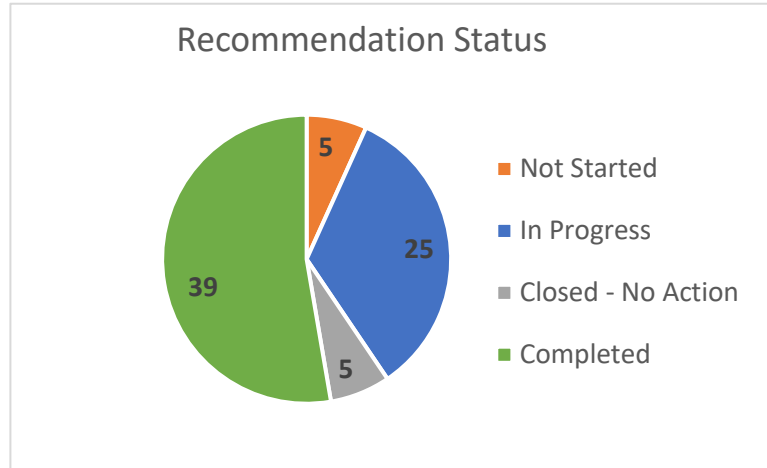


In order to accomplish these changes, new staff were hired, and existing staff focused on concrete action plans to implement recommendations in defined projects. The executive management team has been meeting monthly to review the initiatives, confirm priorities, and update the tracker.

*In addition to addressing the recommendations from the 2019 Review, the agency pivoted to adjust to major change on several fronts*

*The COVID-19 pandemic required a quick shift to a remote workforce.*
An immediate shift to the entire organization working remotely created opportunities and challenges. Some initiatives that were progressing along at a steady pace, such as the paperless initiative, accomplished immediate gains.

*The pandemic resulted in a surge in workloads related to UI cases*
The pandemic resulted in high unemployment, high unemployment insurance (UI) claims, and an influx of UI appeals to the OAH caseload.
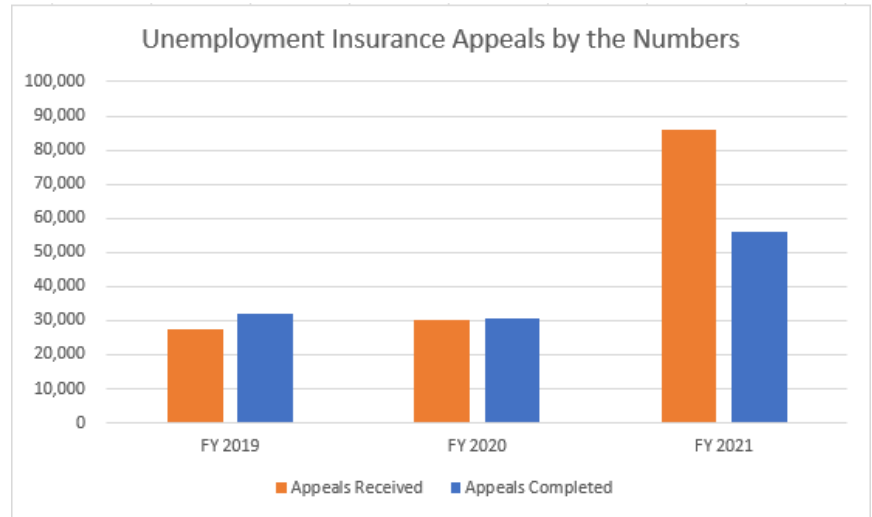
Source: OAH Overview Data 2014 – 2021

In addition to the UI caseload, Paid Family and Medical Leave Act (PFML) cases created a new caseload and program within OAH.

### *Unprecedented speed of growth to support the caseload increase*

Finally, in order to support the caseload surge caused by the pandemic, the size of the staff supporting the UI caseload doubled and the agency increased by approximately 50%. Having to hire, onboard, train, and support the success of so many staff at one time forced the standardization of processes and tools. There was no other way to be successful.

# C. OAH CASELOADS AND PRODUCTIVITY

*Workloads and final authority vary across cases and caseloads.*

The workload associated with each type of case and each unique case varies widely. Each case follows a unique path, which could include anything from no-show to withdrawal to settlement at a preconference hearing to multiple hearings.

Since the inception of administrative hearings offices, sometimes called "central panel agencies", state and local government agencies have established varied approaches to who has the final decision authority. Final authority could rest with:

- an agency's own administrative review process (either through a formal legislative exemption or an informal exemption);
- the central panel agency for only the initial decision; or
- the central panel agency for the entire administrative process and final decision.

In Washington State, OAH has authority to issue the initial administrative order for most programs. For some programs, however, OAH has authority to issue the final administrative order. This varies across programs within some caseloads, using a mix of initial versus final authority, depending on the program.

*Conclusion #1: Appellants' needs vary across caseloads.*

*Synopsis of 2019 conclusion:* Appellants usually do not have formal representation and are less likely than the employers to understand the procedures, laws, and implications of their engagement before, during, and after a hearing. These appellants are likely to require more explanation and support during the process.

OAH adopted new Washington Administrative Code (WAC) section 10-24-010, Accommodation in 2018. The goals of the newly adopted WAC include to:

- establish a referral process for self-represented (pro se) appellants with disabilities to the OAH Americans with Disabilities Act (ADA) coordinator;
- establish a network to assist such pro se parties in accessing OAH's proceedings; and
- establish a training program to enable such assistance.

Providing teleconference access to appellants helps minimize time away from work and travel costs. A portal for accessing case information helps appellants remotely access information about their case.

Information and instructions need to be understandable, using plain talk, and OAH should take advantage of electronic transmission of notices via email or text.

| | |
|---|---|
| *What has changed since 2019?* | OAH has successfully implemented several elements of the plain talk initiative and has improved notices of hearing and written orders. Progress made has included: |

- A Style Manual
- A Writing Style Committee
- Applied plain-talk standards and added structure to order summaries (includes 177 permutations)
- A dozen declarations documents to be sent to parties for new cases types, in addition to addressing Department of Social and Health Services (DSHS) licensing case types, which included over 60 templates
- A "Participant Portal" for appellants to access case information and a Participant Portal Guide is available online. Approximately 12,900 appellants had used the portal by the end of 2021.
- "How to Prepare" instructions published on the website for caseloads such as Social and Health Services appeals, Unemployment Insurance appeals, Licensing appeals, and OSPI appeals
- The Writing Style Committee is working towards reviewing 530 existing templates, looking for ways to simplify the content and improve the readability

| | |
|---|---|
| *What opportunities remain in 2022?* | OAH leadership has identified additional improvement opportunities and is tracking a list of proposed projects that include: |

- Combining brochure inserts
- Creating short form order inserts
- Hiring an in-house Spanish interpreter
- Translating standard form language
- Creating two plain talk trainings (general and specific legal)

There are approximately 530 templates remaining to be updated. In order to ensure highest impact, criteria should be developed for prioritizing the remaining work.

There may be additional opportunities that are not yet on the proposed project list.

- Appellants have voiced frustration and confusion when attempting to follow the instructions provided for group hearings. Providing clear instructions for how to attend hearings and clarify the

purpose of the participant portal may lend to appellants feeling less confused. For example, the instructions provide an attendant ID; however, there is no prompt to enter an attendant ID when an appellant calls in.

- Referring agencies and appellant representatives are concerned about accommodations to ensure appellant access for populations without access to technology, with disabilities, etc. There needs to be various ways for appellants to retrieve their case information and upload documents, including mobile devices.

- Referring agencies have limited understanding of the intent of the Participant Portal. The Office of the Superintendent of Public Instruction (OSPI) made rule changes to allow appellants to e-file; however, the Participant Portal is designed for appellants to access their case information once the referring agency has established the case. It is not designed for appellants to create their own cases in the system. OAH staff are now supporting these appellants through email to establish their case for them. Additional instructions would be helpful regarding how the Participant Portal is intended to be used and the roles for creating cases, adding contacts, attaching documents, and/or accessing information.

- The Participant Portal is accessed through Secure Access Washington (SAW). Some appellants have been confused because SAW is also used to log in securely for interaction with other state agencies, such as Employment Security Department (ESD). The "Creating a SAW Account Instructions" which is already posted on the internet could be updated to mention that a user might find other agency links in SAW. Additional materials could be created (such as a video demonstration or an FAQ for SAW users) to reduce confusion.

- Additional plain talk guidance on how to use the portal and what can be found there could be helpful. Appellants sometimes have difficulty downloading Adobe Acrobat files from the portal. Some appellants may not know the difference between a Notice of Hearing and an exhibit file.

- The Pew Research Center reported 46% of Americans they surveyed who make less than $50,000 per year rely solely on a smart phone for access to the internet[1]. Mobile device accessibility would enable appellants to access the Appellant Portal who live in poverty or don't have access to a computer.

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[1] Pew Research Center, "Demographics of Mobile Device Ownership and Adoption in the United States," 2021, https://www.pewresearch.org/internet/fact-sheet/mobile/

*Status of 2019 Review Recommendations*

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 1.1  Improve notice of hearing and written orders for appellant use by ensuring they are written in plain language and available in a variety of formats. | 👍 | ⏳ | ⏳ |
| 1.2  Complete the business and technical requirements for an appellant portal to allow the appellant easy access to the status of appeals, hearing notifications, and other relevant case information. | 👍 | ✔ | ✔ |

| 👍 | 👍 | 👎 | 🔄 | ⏳ | ✖ | ✔ |
|---|---|---|---|---|---|---|
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

*New 2022 Recommendations*

The following new recommendation is offered to further improve program outcomes and address current issues:

1.3.  Implement responsive web design to allow appellants to access the portal from a mobile device. This will increase the accessibility of the Appellant Portal to appellants who only have internet access through a mobile device.

*Conclusion #2: There is opportunity to increase consistency in rules and/or processes across referring agencies and caseloads.*

**Synopsis of 2019 conclusion:** All the hearings that OAH holds are governed by the state's Administrative Procedure Act (APA). One of the objectives of the APA is to standardize the appeals processes. As a result, OAH adopted the Model Rules of Procedure. Each state agency is expected to "adopt as much of the model rules as is reasonable under its circumstances."

As a result, many of the programs supported by OAH are allowed the flexibility to create unique rules and processes and have adopted further rules. OAH administrative law judges (ALJs) and support staff must manage performance timelines that range from five business days to 120 days from time of appeal filing or receipt until the close of the hearing record. In addition, there are several other performance timelines associated with orders and motions throughout the appeal process.

Looking for opportunities to standardize timeframes could result in OAH, agencies, and Washington residents more efficiently and easily navigating the appeals process. Because standardizing rules would require change across agencies, it represents a major work effort.

OAH has been working to transition the labor and resource intensive paper-based workloads and workflows to paperless processes. Some other Washington entities, such as the Washington State Board of Tax Appeals, Thurston County Superior Court, and the State Court of Appeals, among others, have already put e-filing in place.

A few agencies are currently sending and receiving data electronically with OAH; however other agencies' rules or processes require paper. These agencies will need to update their rules or processes to allow OAH to complete its paperless objective.

OAH staff tend to err on the side of good customer service, accommodating referring agency requests for manually customized reports and invoices. OAH would reduce time spent serving agencies by providing the data directly to them for their own resources to manipulate as needed to meet their unique requirements.

*What has changed since 2019?*

Instead of working with referring agencies to standardize rules, PRISM enhancements were made which allow judges and staff to more easily track the wide range of due dates related to the various cases.

As a result of the COVID pandemic and a broad sweeping shift to remote work, additional agencies have begun to access data through Border Services and/or the Referring Agency Portal. This self-service access to the status of appeals, hearing notifications, and other relevant case information helps to minimize requests to OAH staff to provide the information.

If referring agencies would like changes to the portal, they can submit portal enhancement recommendations. Referring agencies appreciate that their requests have been acknowledged and addressed.

The Electronic Case Records Project was completed March 2020. All case information, including documents generated by OAH or received from other parties became a part of their electronic case file in their case management system. This transition helped OAH maintain services during the pandemic and allowed for them to leverage their workforce more efficiently and effectively across the organization.

OAH launched the Participant Portal in April 2020 providing appellants with access to their case information electronically.

*What opportunities remain in 2022?*

Model rule making is assigned to an agency leader with an already full plate. Because standardization across agencies represents a major work effort, it is not likely to be accomplished without a dedicated resource.

While many efficiencies have been gained through agency access to the portal, some groups within referring agencies admitted to not using the

portal. Instead, their process is to email OAH staff and have them upload documents for them.

The launch of the Participant Portal greatly helped the push towards a paperless agency, but the Participant Portal does not allow for appellants to e-file appeals. There is opportunity to streamline the intake of appeals through the Participant Portal. OAH should evaluate if this service offering would be beneficial, how it could be done, and if it is realistic. In the interim, in collaboration with OSPI and any other interested referring agencies, find a viable solution for supporting the creation of new appeals.

Standardization should be a key principle of the inter-agency workgroup collaborating on the Long Term Services and Supports Trust Program caseload and applies to other future workgroups and caseloads as well.

OAH has begun a project to consolidate printing, mailing, and paper intake operations from four locations to two locations. This effort will improve the speed of access to information within PRISM. This project is expected to be completed in 2023.

*Status of 2019 Review Recommendations*

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 2.1 Work with the advisory committee to develop uniform timeframes for case management when they are not mandated by state or federal statute. This may require rule changes but will assist OAH and agencies to more efficiently manage caseloads, and citizens to better understand and navigate the process. (See Recommendation #18.1.) | Agree as Modified | In Progress | In Progress |
| 2.2 Identify and complete the remaining activities and resources necessary to achieve OAH's electronic case records (ECR) project. | Agree | Completed | Completed |
| 2.3 Work with referring agencies to leverage efficiencies in currently available options for accessing data through Border Services and/or the Referring Agency Portal, allowing agencies self-service access to the status of appeals, hearing notifications, and other relevant case information. | Agree | Completed | Completed |
| 2.4 Work with stakeholders to continue the efforts for e-filing of appeals. | Agree | In Progress | In Progress |

| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |
|---|---|---|---|---|---|---|

*New 2022 Recommendations*

There are no new recommendations offered in this area.

| | |
|---|---|
| *Conclusion #3: There are many opportunities to increase organization-wide process consistency at OAH.* | *Synopsis of 2019 conclusion:* There are many advantages to implementing consistent processes, captured in standardized manuals. Each OAH office has created its own localized desk manual despite many of the tasks being completed enterprise wide. The difference in approach poses a challenge for intra-agency collaboration. |

Without organization-wide processes, there is no formal new employee orientation or organization-wide training program in place. Each new hire is individually mentored and trained by their supervisor. This creates a burden for supervisors and results in wide variability in each onboarding experience. Turnover results in constant onboarding, which leads to supervisors spending less time developing staff and performing other operational duties.

OAH should remove the silos between offices and create a position whose primary focus is to work with the Division Chief ALJs and Legal Administrative Managers across all offices to standardize processes, procedures, templates, and forms.

*What has changed since 2019?*

OAH hired a training coordinator to facilitate the creation of standardized training materials and a training program that ensures staff understand what is expected of them. This has allowed staff to onboard quickly and more efficiently navigate the organization.

OAH has implemented a new Employee Onboarding Program that consists of an intensive two-day structured onboarding, allowing new employees to familiarize themselves with the structure of OAH, and the common tools used to perform work. The onboarding also includes an introduction to:

- leaders throughout the organization introduce new employees to various units and their role in the organization (Fiscal, Public Records, Information Technology (IT), Human Resources (HR), and the Call Center);
- the organization's training program (training program overview TLC required trainings, ADA accommodations, and training and development resources); and
- self-directed activities (introduction to administrative law, beginners guide to Outlook, ergonomics training, etc.).

In addition to the general agency onboarding, a few role-specific trainings have been developed, helping ensure consistent practices across offices. For instance, an ALJ training program has been implemented. Also, a fairly

robust 6-week program to support judges new to caseloads has been implemented.

The 2019 Study described one resource gap as being like a Court Administrator or an Assistant Chief for Judicial Practice Improvement. This position would help the agency talk about the value of OAH services and be able to answer specific and important research questions that support the work of the agency and the ALJs. The position would remain separate from the judicial or adjudication operations of the agency. Since the review, OAH established the Deputy Chief ALJ for Operations position that is similar to a court administrator to work with the Division Chief ALJs and LAMs to standardize processes, procedures, and templates.

The results of improvements to the training program are quantifiable in the State Employee Engagement Survey:

| I receive the formal training and job shadowing that I need in order to do my job. | |
|---|---|
| 2019 | 69% |
| 2020 | 74% |
| 2021 | 86% |

*Source: Office of Financial Management 2019, 2020, and 2021*
*State Employee Engagement Survey Results*

*What opportunities remain in 2022?*

OAH has made great progress identifying and implementing process improvements that have become part of standard operational activities. While training for the UI caseload has been developed, the remaining caseloads need standardized training as well.

WaTech is discontinuing support of Microsoft SharePoint. OAH is moving away from using the tool and staff now resort to storing files in shared folders on the network and posting to the intranet site. Many advances have been made to enhance and simplify collaboration using Microsoft Teams, which leverages SharePoint file sharing capabilities. Since Teams is in use at many agencies, OAH may be able to leverage partners for advice.

*Status of 2019 Review Recommendations*

| | 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|---|
| 3.1 | Standardize training materials and create a training program to ensure staff understand what is expected of them for consistent use of technologies and processes, such as WebEx for hearings or Outlook for scheduling. Requiring use of tools that are already in place will quickly improve efficiencies within the organization. (See Conclusion #16.) | 👍 | ⧖ | ✔ |

| 2019 Review Recommendations | | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|---|
| 3.2 | Establish a position, similar to a Court Administrator, whose primary focus is to work with the Division Chief ALJs and Legal Administrative Managers to standardize processes, procedures, templates, and forms. (See Recommendation #15.1.) | 👍 | ✔ | ✔ |
| 3.3 | ~~Standardize organizational policies and processes and~~ Use a collaboration tool (similar to SharePoint) when teams are collaborating on initiatives and developing operational documents. [Amended to clarify recommendation in 2022] | 👍 | ⏳ | 🕐 |
| 3.4 | Provide electronic access to all case-related information and standardize the use of existing tools and systems such as PRISM and NTMS (OAH's timekeeping system). | 👍 | ✔ | ✔ |

| 👍 | 👍 | 👎 | 🕐 | ⏳ | ❌ | ✔ |
|---|---|---|---|---|---|---|
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

*New 2022 Recommendations*

There are no new recommendations offered in this area.

*Conclusion #4: OAH staff are passionate about the agency mission and take pride in doing meaningful work, particularly valuing their role of independence.*

*Synopsis of 2019 conclusion:* In OAH, the value of impartiality and independence is felt strongly across the organization. OAH staff consistently articulated the importance of their role in providing access to a fair and impartial process for Washingtonians. When surveyed about their mission as part of the study, all respondents felt strongly about their work.

**I believe in the work that we do.**



Often 19%
Always 81%
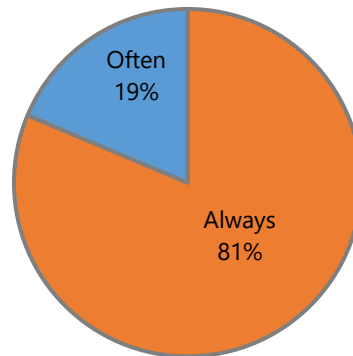
*Source: OAH Review staff and stakeholder survey held in May 2019. 134 OAH staff answered this question. There were no responses of sometimes, seldom, or never.*

| | |
|---|---|
| ***What has changed since 2019?*** | OAH staff continue to demonstrate their belief in the mission of the organization. |
| | The 2021 State Employee Engagement Survey asked employees to rank their agreement with the statement, "I find meaning in my work." There was a 94% positive response rate for OAH employees as compared to a 76% positive response rate for employees statewide. |
| ***What opportunities remain in 2022?*** | Keep doing what you're doing. |
| ***Conclusion #5: Morale varies across the offices and within offices.*** | ***Synopsis of 2019 conclusion:*** While the survey responses exposed uniformity in belief in the mission of the organization, how that mission translates to the work and the environment is not consistent across caseloads, locations, or roles. |
| | During interviews and work sessions, staff shared that there is often a lack of information about why decisions or changes are being made. One person interviewed explained that when a suggestion is submitted, it is unclear what happens next. Sometimes it appears as if nothing happens. Other times a change is implemented, but it is different from the requested/suggested action, and it is unclear what influenced the change. |
| ***What has changed since 2019?*** | Since the review, a wide variety of workgroups were formed to tackle the agency's many improvement initiatives. The workgroups helped to break down silos, included those impacted by decisions to have an opportunity to provide input, and developed problem solving skills. |
| | Engaging a wide variety of stakeholders can slow down decision making; however, having all the data necessary to make a good decision the first time reduces later change and confusion. |
| | Individuals interviewed during the follow-up assessment acknowledged and were thankful for increased communications from the Chief. It was noted that both email communications and a Town Hall meeting twice monthly provide staff the opportunity to stay informed about the organization. Both of these were timely additions due to the shift to remote working that occurred as a result of the COVID-19 pandemic. |
| | Overall, OAH staff responded more positively to the 2021 State Employee Engagement Survey than the statewide average. A few highlights from the 2021 survey: |

**2021 Employee Engagement Survey Highlights**

My supervisor provides helpful feedback. — 76%
I find meaning in the work I do. — 76%
I know what is expected of me at work. — 84%
My supervisor treat them with dignity and respect. — 88%

Legend: Statewide % Positive, OAH % Positive
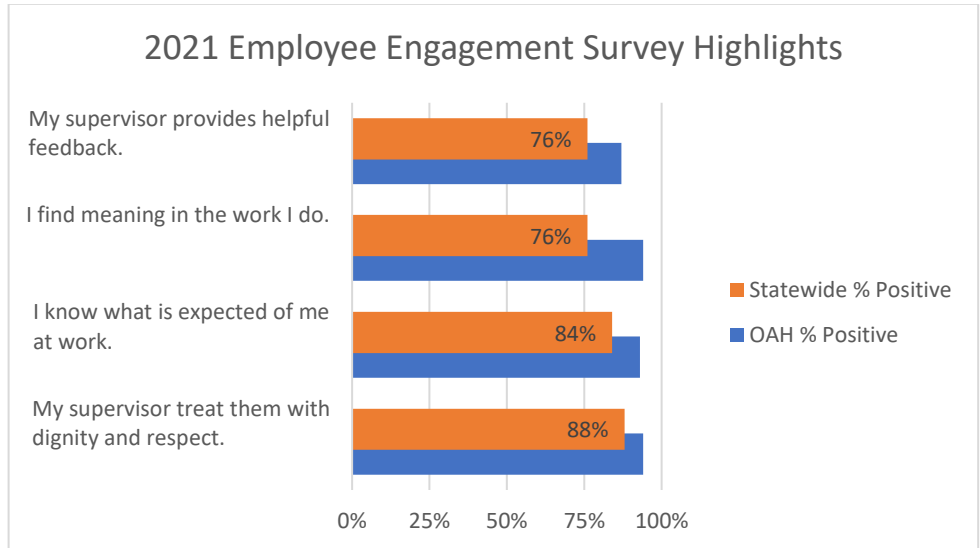
*What opportunities remain in 2022?*

Although better than the state averages, two survey questions fell under 70%. Both received 68% positive scores overall for the agency:

- "I have the opportunity to give input on decisions affecting my work." (state average was 60%)
- "I am encouraged to come up with better ways of doing things." (state average was 56%)

Looking at the scores based on roles within the organization, professional administration/support staff scores were above 70% and far exceeded the state averages. It was low ALJ scores that brought the scores below 70%. Input received during the assessment provided insight in several opportunities to improve these scores.



**I have the opportunity to give input on decisions affecting my work.**

Professional Admin / Support Staff — 75%
ALJs — 63%



**I am encouraged to come up with better ways of doing things.**

Professional Admin / Support Staff — 83%
ALJs — 56%
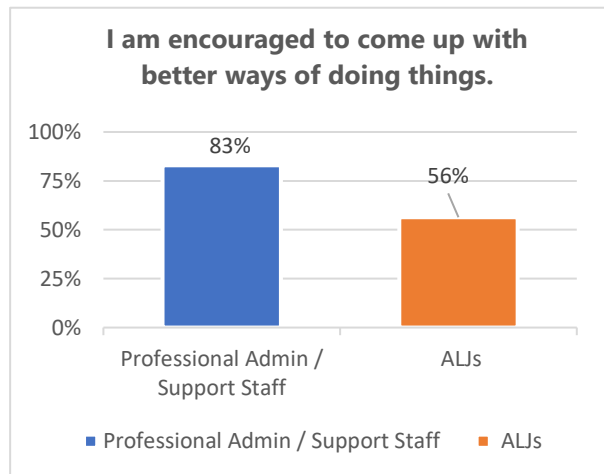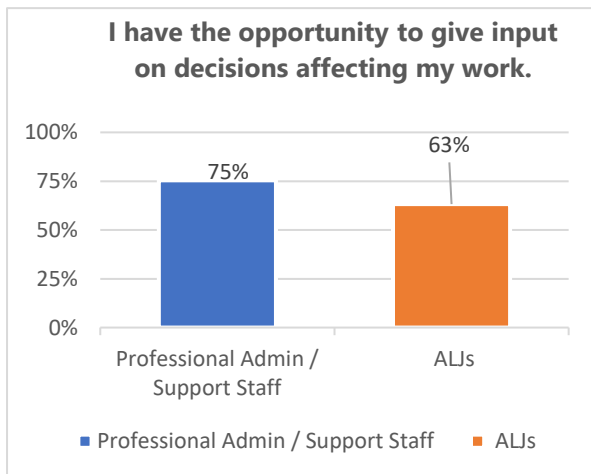
*Source: Office of Financial Management 2021 State Employee Engagement Survey Results*

*"The problem with communication is the illusion that it has been accomplished." - George Bernard Shaw*

All individuals interviewed acknowledged and appreciated the increase in communication channels and frequency in the last few years. They also cited areas where they would like more opportunities to become informed and participate.

- When a decision is announced, it is not always clear what options were considered or why the chosen option was selected over other options.

- Decision timeframes aren't always clear to staff. Some decisions are presented as being high priority and taking priority over other decisions, but it is not clear why.

- It is still unclear to staff who has the authority to make certain kinds of decisions and who is expected to be consulted and/or informed in the decision-making process. (See Conclusion #12: There is a lack of understanding of the current hybrid, or matrix, organization structure.)

- The value of the recent organizational structure change varies greatly depending on role. The benefits are not clear to all levels within the organization. Executive leadership and professional administration/support staff see benefits, but it may be at the expense of the ALJs. (See Conclusion #12: There is a lack of understanding of the current hybrid, or matrix, organization structure.)

- It is not always clear to staff which subject matter experts are included in workgroups or if their role is included in a workgroup with outcomes that impact their work.

- It is not clear to staff if a subject matter expert is involved in the business processes that impact their work or if there is an option to participate. A few examples include:

  - When decisions are made that impact appellants, call center staff don't always know before the appellants call for support.

  - When written communications to appellants are developed and sent, it isn't clear that a representative from the call center will be included in the review of the materials before the materials are finalized.

  - Hiring decisions have been streamlined to leverage a panel that may not include the new hire's direct supervisor. Some supervisors were comfortable with this while others were not. Some supervisors would like to be included in interviewing the staff they will supervise, but didn't feel they had the option to participate.

- A subject matter expert may be involved in drafting a policy but is not involved in the review and discussion as part of decision making. Decisions are then made that don't take full advantage of the subject matter expert's knowledge and input.

- It is felt by some that becoming represented by the union has had a "chilling effect" and collaborative discussions occur less frequently. What used to be common decision-making conversations, don't occur anymore.

- Staff mentioned it was a great benefit for them when the agency paid their bar dues (2020 and 2021). They are unclear if this benefit will continue in future years.

- Some felt that the majority of agency resources have gone to supporting the UI caseload, leaving improvements and support for their caseloads to be de-prioritized.

- All OAH offices, except the Seattle office, have two legal assistant 4 (LA4) positions which are supervisory positions. The offices with these two positions reported many improved outcomes for their offices and staff as a result of the work being performed by the LA4. Staff reported that spreading the work across a larger team freed up time, enabling them to participate in workgroups. The Seattle office has not achieved the same level of improvement and positive outcomes. Staff felt this could be because there isn't an LA4. There could be other reasons why the Seattle office has not seen the same improvements. Seattle staff also had the lowest percentage of engagement with the survey and a lower percentage of staff who believed they always or usually have the opportunity to provide input on decisions affecting their work. (See Recommendation 9.2)
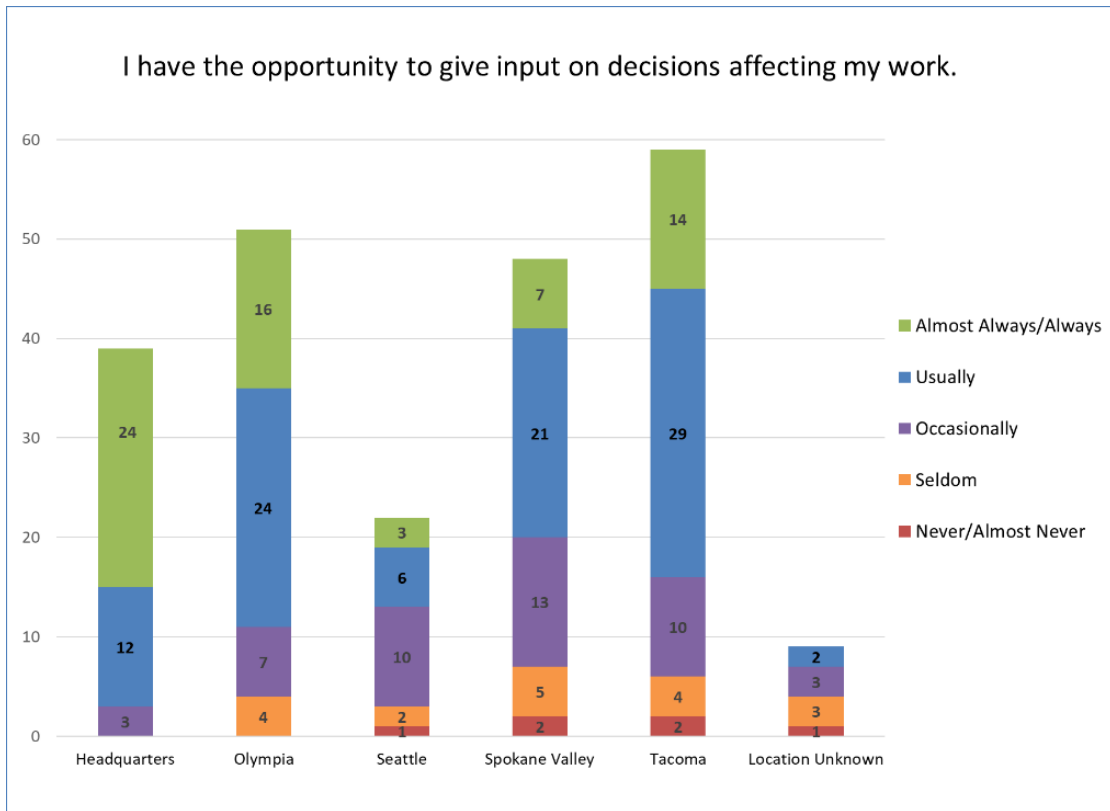
*Source: Office of Financial Management 2021 State Employee Engagement Survey Results*

## Status of 2019 Review Recommendations

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 5.1   Ensure adequate subject matter expertise is leveraged prior to decision making and that the rationale behind decisions is documented and communicated. (See Recommendation #9.1.) | 👍 | ✔️ | ⏳ |

| 👍 | 👍 | 👎 | 🕐 | ⏳ | ✖️ | ✔️ |
|---|---|---|---|---|---|---|
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

## New 2022 Recommendations

There are no new recommendations offered in this area.

*Conclusion #6: Measurement of performance varies across the offices.*

*Synopsis of 2019 conclusion:* There is strong desire for more standardized, defined, and clearly communicated performance measures.

The agency needs to update performance measures and catch up on performance reviews. Most staff shared it had been at least a year since their last performance review. Some staff shared that they did not have defined performance criteria. Other staff shared performance measures appeared to vary for different staff, even when filling the same role.

There would be value in establishing, monitoring, and reporting on performance measures at the strategic, tactical, and operational level to increase performance and accountability. Identified performance measures ensure that both the supervisor and employee are aware of work that is considered "acceptable performance". Aligning employee performance with the organization's mission results in a more engaged workforce.

*What has changed since 2019?*

The agency has improved considerably in this area. All position descriptions were updated and are posted in an area easily accessible to supervisors and HR.

The performance review process was modified from being based on anniversary dates to annual cycles. Supervisors don't have to track each individual's anniversary date but can dedicate time once a year to ensure all staff have had a review.

Leveraging the updated position descriptions and the new annual review cycle, the agency has caught up on all performance reviews.

*What opportunities remain in 2022?*

Interviewees shared insights into possible opportunities to improve both the specificity and consistency of performance management. These included:

- Documented guidelines for ALJ quality metrics would help senior ALJs with evaluations and discussions regarding the expected rate of grammatical or typographical errors and the acceptable level of review required for documentation. Having guidelines instead of performance expectations provides for supervisory flexibility, while at the same time providing a quantitative tool that helps remove subjectivity and vagueness and improves consistency across reviews.
- Increase communications regarding the agency's success measures to ensure staff are aware of the agency's goals and more easily understand how their job supports those goals during the next annual review.
- Encourage supervisors to review the section of the PDP that documents how a position supports the agency's strategic goals.

- Leverage SMART guidelines (specific, measurable, achievable, realistic, and timebound) when developing success measures and key performance indicators for tracking progress implementing the Strategic Plan. For example, "Increase use of customer portal" could be "Increase use of customer portal for SHS caseload by 25% before December 2022."

*Status of 2019 Review Recommendations*

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 6.1 Reconfirm or establish and communicate performance measures and catch up on performance reviews. | 👍 | ✔️ | ✔️ |
| 6.2 Establish, monitor, and report on performance measures at the strategic, tactical, and operational level to increase performance and accountability. | 👍 | ⏳ | ⏳ |

| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |
|---|---|---|---|---|---|---|
| 👍 | 👍 | 👎 | 🕐 | ⏳ | ❌ | ✔️ |

*New 2022 Recommendations*

There are no new recommendations offered in this area.

| | |
|---|---|
| ***Conclusion #7: There is a lack of clearly defined roles, responsibilities, and performance measures.*** | **Synopsis of 2019 conclusion:** One of the first steps in measuring performance is to ensure roles, responsibilities, and expectations are clearly defined, including where authority rests in decision making. An advantage of updating roles, responsibilities, and performance measures would be the opportunity to clarify expectations for logging "Essential Office Time" or EOT time in the time management system. |
| | The OAH reporting application includes executive management reports for reviewing information about cases, such as caseload and timeliness. It would be helpful to leverage the portal's capabilities to allow easier access to data that is applicable to staff at all levels of the organization to consume and inform their own work. |
| ***What has changed since 2019?*** | The organizational structure was changed to improve clarity and reduce confusion about roles and responsibilities across caseload and geographies. Information was sent to all staff regarding the changes and the Chief ALJ shared information about the changes at a Town Hall meeting. The agency's intranet page contains information about roles and |

responsibilities. Position descriptions are saved in a location that is easy for supervisors and HR to access. All performance reviews have been completed. (See Conclusion #12: There is a lack of understanding of the current hybrid, or matrix, organization structure.)

Enhancements were made in PRISM so ALJs and support staff have a dashboard to quickly see their caseload assignments and deadlines. In addition, essential office time (EOT) was re-branded and simplified in NTMS with just a few categories for non-billable time.

***What opportunities remain in 2022?***

Overall, there has been improvement to the availability of information related to roles, responsibilities, and performance metrics, but there continues to be ambiguity and confusion for some staff regarding who is responsible for decision making and who will be included in the decision-making process.

The benefit of the organizational changes is viewed differently depending on the level of the organization. Where executive leadership and professional administration/support staff see benefits, the ALJs may not. (See Conclusion #12: There is a lack of understanding of the current hybrid, or matrix, organization structure.)

Originally the agency envisioned a new software tool for tracking performance. Since that project stalled, the agency considers that project not started. Because of the enhancements made to PRISM which allow ALJs and staff to now track their caseload metrics, this could be considered started and in progress.

### Status of 2019 Review Recommendations

| 2019 Review Recommendations | | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|---|
| 7.1 | Define roles and responsibilities, including authority in decision making. (See Recommendations #12.3 and #13.1.) | 👍 | ⏳ | ⏳ |
| 7.2 | Expand existing dashboards to report on performance measures that are meaningful and accessible for staff at the strategic, tactical, and operational levels of the organization. (See Recommendation #6.2.) | 👍 | 🕐 | ⏳ |

| 👍 | 👍 | 👎 | 🕐 | ⏳ | ❌ | ✔ |
|---|---|---|---|---|---|---|
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

*New 2022 Recommendations*

There are no new recommendations offered in this area.

| | |
|---|---|
| *Conclusion #8: Staff are concerned about compensation.* | **Synopsis of 2019 conclusion:** The staff who were surveyed listed as the number one reason they would consider leaving OAH was related to salary. Staff across OAH were concerned that there is disparity of pay between themselves and positions performing the same or similar work in other Washington agencies.<br><br>One way to address disparity would be for OAH to work with the Office of Financial Management (OFM) to benchmark ALJ salary to the salaries of judges at BIIA. This could require implementing the general salary schedule for the OAH ALJs so their salaries could be comparable during salary surveys. |
| *What has changed since 2019?* | In April 2020, the Legislature enacted House Bill 2017 which provided OAH's ALJs collective bargaining rights. The Washington Federation of State Employees (WSFE) was certified as the union representative for the ALJs in the bargaining unit. As a part of the public testimony, it was stated that OAH's ALJs were 12% behind public sector peers and compensation levels were the primary reason for departures.<br><br>The following chart compares compensation for two similar ALJ roles: 1) the BIIA Judge 3 compared with the OAH Line ALJ and 2) the BIIA Judge 4 with the OAH Lead ALJ. The chart shows the gap for Line ALJs was closed. The gap for Lead ALJs was not eliminated but the gap decreased. |



Salary Comparision BIIA and OAH 2019 vs. 2022

2019: BIIA Judge 3 $102,316; OAH Line ALJ $97,428; BIIA Judge 4 $110,189; OAH Lead ALJ $103,140

2022: BIIA Judge 3 $105,384; OAH Line ALJ $105,384; BIIA Judge 4 $113,484; OAH Lead ALJ $110,760
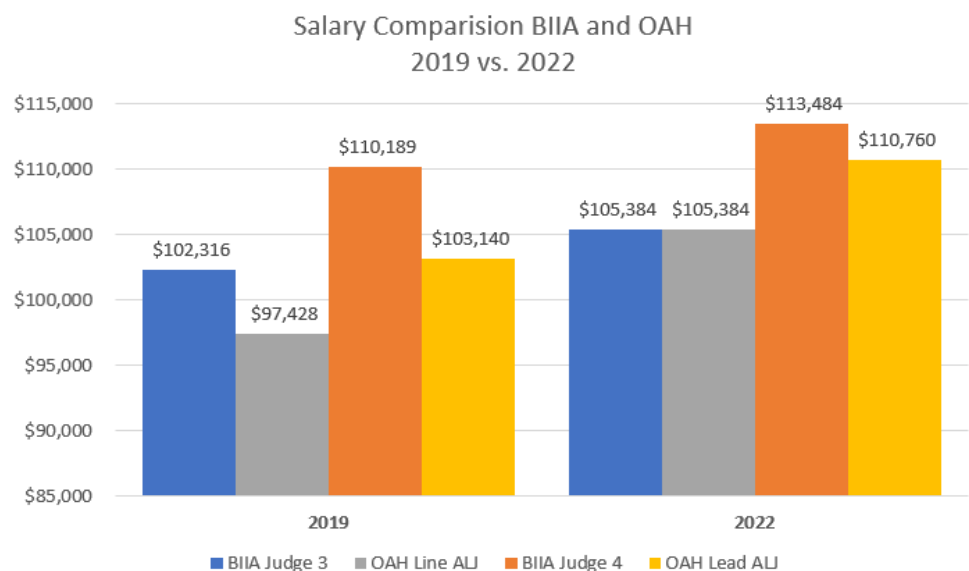
*Sources: OFM Salary Schedule*

*What opportunities remain in 2022?*

Reactions to the adoption of the general salary schedule for ALJ compensation varied across organizational levels. There was some uncertainty at the executive level whether ALJs were satisfied with the changes. Because of the influx of temporary judges, and attrition when they found permanent jobs, there were concerns that attrition data would not be a good indicator of satisfaction.

Some of the ALJ and senior ALJ input regarding the change indicated there continues to be concern about compensation. Such as staff feeling:

- the pandemic impacted bargaining power;
- future opportunities for increases will be limited to bargaining processes and timeframes;
- salary adjustments for senior ALJs were not commensurate with line ALJs which decreased the monetary incentive to advance to greater responsibility; and
- disappointed that 5% salary increases did not apply for those already earning at the top of the salary range.

The bargaining agreement is new. ALJs are still learning when and how to engage with their union representatives. They are also still learning how to navigate the change to internal relationships. Agency leadership's partnership with the labor organization is still being developed. Process changes and new relationships should continue to be developed. There may be opportunities to boost morale, elicit input, and collaborate with this group.

### *Status of 2019 Review Recommendations*

| 2019 Review Recommendations | | | | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|---|---|---|
| 8.1 Review options with OFM to benchmark ALJ salary to the salaries of judges at BIIA. This may require shifting the ALJs from exempt status to classified so salaries can be linked during salary surveys. | | | | 👍 | ❌ | ✔️ |
| 👍 Agree | 👍 Agree as Modified | 👎 Disagree | ⏱ Not yet started | ⌛ In Progress | ❌ Closed - No Further Action | ✔️ Completed |

### *New 2022 Recommendations*

There are no new recommendations offered in this area.

***Conclusion #9: Many of the recommendations from past reviews have not been implemented.***

***Synopsis of 2019 conclusion:*** In 2010, OAH commissioned an efficiency review to inform updates to the agency's strategic plan and to guide future budget requests. The review attempted to evaluate OAH processes, practices, and systems in ways that balanced efficiency, effectiveness, and service quality. (Framework LLC, Washington Office of Administrative Hearings Efficiency Review, 2010). In 2012, the same company returned to evaluate progress and challenges and publish an update. (Framework LLC, Washington Office of Administration Efficiency Review Update, 2012).

A lack of resources has been one of the biggest barriers to addressing the many desired improvements at OAH. Staff and leaders wear multiple hats, crossing many skill levels and fields of expertise. Leaders have an overwhelming set of responsibilities, often outside their areas of expertise. OAH has limited capacity and few resources to fill even some of the most common positions that other similar-sized organizations have authority and budget to fill.

***What has changed since 2019?***

OAH has successfully completed many of the recommendations made in the 2019 review and several more are underway.



Recommendation Status

- Not Started: 5
- In Progress: 25
- Closed - No Action: 5
- Completed: 39
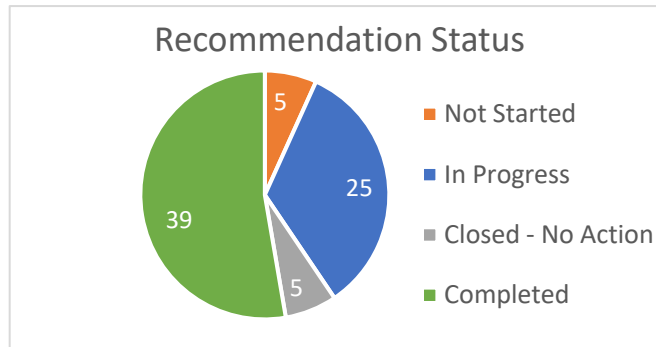
New staff were hired, and existing staff focused on concrete action plans to implement recommendations in defined projects. The executive management team met monthly to review the initiatives, confirm priorities, and update the tracker.

An approach to implementing a Project Management Office was developed, but the Project Management Office itself was not formalized. One project manager was hired to help complete initiatives in the Strategic Projects Operations Tracker (SPOT). There are 98 unique items in the tracker and 35 of them are marked complete.

*What opportunities remain in 2022?*

The approach for the Project Office is a great start. There is evidence the new project manager has been adding value. Not all interviewees understood how to engage the project manager for help with projects because the project manager is already fully allocated on projects. A communication to staff describing the plans for the Project Office and how and when to engage with the project manager would be helpful.

Despite a visibly concerted effort to increase communication in the agency, there are still gaps in knowledge on how decisions are made and how to get answers. Awareness and needs vary across the organization's hierarchy and geographies. Having organizational change management expertise to understand the wide range of stakeholder's needs would continue closing communication gaps.

The 2019 assessment found that the wide range of unique processes across caseloads resulted in a very complex environment that could be simplified to increase efficiencies. Without a dedicated resource identifying opportunities and facilitating intra-agency and appellant workgroups, it seems unlikely that model rules will become a reality.

### *Status of 2019 Review Recommendations*

| | 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|---|
| 9.1 | Create a governance structure with subject matter experts to prioritize initiatives, review and raise issues, and make decisions. | 👍 (Agree as Modified) | 🕐 (Not yet started) | ✔ (Completed) |
| 9.2 | Ensure there is adequate capacity and expertise to effectively execute program, administrative, and regulatory activities. | 👍 (Agree) | ⌛ (In Progress) | ⌛ (In Progress) |
| 9.3 | Establish a Business Transformation PMO with project, organizational change management, and Lean expertise to implement the recommendations of prior reviews, this review, and the agency's priorities. (See Recommendations #10.3, 12.1.1, and #15.1.) | 👍 (Agree as Modified) | ✔ (Completed) | ⌛ (In Progress) |
| 9.4 | Develop a Communications Plan and a Stakeholder Management Plan. | 👍 (Agree) | ✔ (Completed) | ✔ (Completed) |
| 9.5 | Develop a tactical roadmap as a companion to the Strategic Plan. | 👍 (Agree as Modified) | ✔ (Completed) | ✔ (Completed) |

| 👍 Agree | 👍 Agree as Modified | 👎 Disagree | 🕐 Not yet started | ⌛ In Progress | ❌ Closed - No Further Action | ✔ Completed |
|---|---|---|---|---|---|---|

*New 2022 Recommendations*

9.6 Adding organizational change management expertise to the team would help close the awareness, desire, knowledge, ability, and reinforcement gaps that are difficult to close without help.

| | |
|---|---|
| *Conclusion #10: OAH has difficulty accessing the data to make informed decisions and manage workloads.* | *Synopsis of 2019 conclusion:* Staff and referring agencies surveyed appreciate the IT support, tools, and innovation. There was very little in the comments mentioned that was truly technology related. Most of the desired changes around technology were process or governance related. |

Only four of the items are primarily technology initiatives, as opposed to process change, including:

- automating notifications and reminders for hearings;
- expanding the use of the agency portal;
- increasing the ability to create performance or data dashboards; and
- adding functionality to automate scheduling and assignments.

The final step to ensuring the consolidated data remains as valuable as possible, is to ensure data standards are defined, including a data dictionary in plain language so end users know the appropriate data for entry.

Staff should have recurring training, so they have the knowledge and ability to perform their jobs effectively to ensure and protect data integrity.

*What has changed since 2019?*

As a result of the many initiatives to standardize processes over the last few years, and the standardized training materials which ensure consistent training is provided to staff, access to data for analysis is becoming easier.

The SPOT contains a list of the agency's strategic projects. Status is reviewed and updated monthly by the EMT members. It can be found on the agency's intranet site. Some of the initiatives had to do with efforts such as eliminating paper so that all information is online and implementing an onboarding program to teach new staff where to find the resources they need.

The OAH Leadership Team was re-established and expanded to include the LAMs and Assistant Chief ALJs in addition to the EMT members and Division Chiefs. The Union Management Communication Committee (UMCC) also meets regularly and allows for sharing information and collaboration regarding concerns and possible resolution(s).

The IT unit meets monthly to review support tickets and looks for opportunities for both system enhancements and training. Their dedication to reviewing enhancement requests and meeting their customers' needs was noted both internally and externally.

| *What opportunities remain in 2022?* | A project to develop a data dictionary for the organization has begun. The data dictionary has a crowdsourcing aspect to allow individuals to add a new term or clarify an existing entry. Completing this tool will help the organization increase standardization by using consistent terminology. |
|---|---|
| | Some interviewees were not aware of the SPOT. Others were aware of it but did not know that it is published on the intranet and accessible to staff. Meeting stakeholder communication needs is time consuming. An organizational change management specialist could support the leadership team and project manager to identify and bridge gaps in information sharing. (See New Recommendation #9.6) |

### *Status of 2019 Review Recommendations*

| **2019 Review Recommendations** | **OAH Response** | **OAH Status** | **Stellar Assessment** |
|---|---|---|---|
| 10.1 Leverage a governance committee to prioritize the tools, technology, and/or resource changes in support of OAH staff. (See Recommendation #9.1.) | 👍 | ⟳ | ✔ |
| 10.2 Create a data dictionary in plain language to define and communicate the expected data for each of the fields within PRISM so that end users know the appropriate data for entry. | 👍 | ⌛ | ⌛ |
| 10.3 Leverage training and organizational change management to improve the use of technology and support quality and consistency, allowing leaders and stakeholders to more easily analyze issues, identify trends, and develop data-driven options for decision making. (See Recommendations #9.3, 12.1.1.,15.1. and New Recommendation #9.6) | 👍 | ⌛ | ⌛ |

| 👍 Agree | 👍 Agree as Modified | 👎 Disagree | ⟳ Not yet started | ⌛ In Progress | ✖ Closed - No Further Action | ✔ Completed |
|---|---|---|---|---|---|---|

### *New 2022 Recommendations*

There are no new recommendations offered in this area.

**Conclusion #11: Staff like the flexibility of performing their work anywhere.**

*Synopsis of 2019 conclusion:* Given the number of hearings that can be held via teleconference, there is opportunity for OAH ALJs to work remotely. Continuing to transition information and processes to electronic records management and achieving the goal of becoming paperless will help further this flexibility.

At the time of the study, only 12% of staff were teleworking all the time and 52% were never or rarely teleworking.

**What has changed since 2019?**

The COVID-19 pandemic drove change related to this conclusion more than any other. Significant changes were implemented quickly because of the pandemic and made working remotely a more viable option than ever before. These included:

- the Governor's Proclamation 20-25 Stay Home - Stay Healthy to prohibit Washington residents from leaving their homes except for essential activities or business services;
- the transition to electronic records management;
- the use of Microsoft Teams for collaboration; and
- standardized processes, style manuals, and trainings.

In March 2020, OAH was able to transition quickly to nearly all employees teleworking full-time from home. A few were needed in the offices to process mail, etc.

In preparation for reopening offices and returning to working in person, OAH developed return-to-work protocols, leveraging workgroups to gather staff input. Most staff feel their needs regarding reopening have been heard.
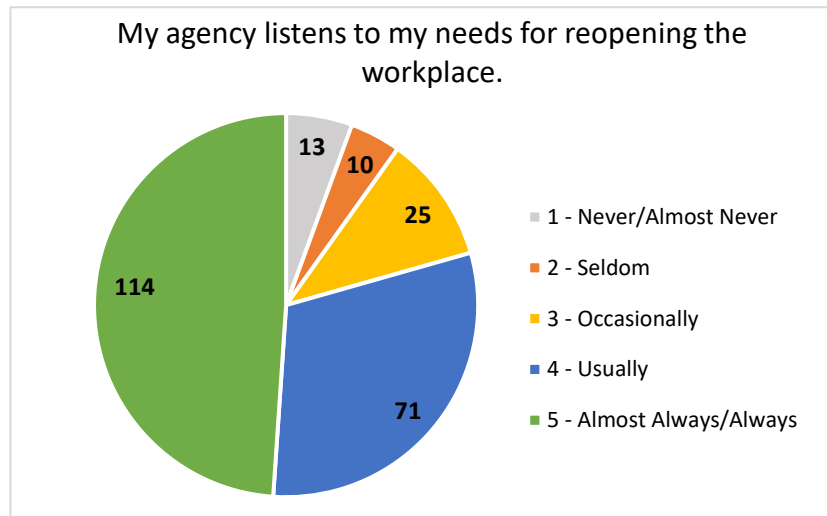


My agency listens to my needs for reopening the workplace.

- 13 — 1 - Never/Almost Never
- 10 — 2 - Seldom
- 25 — 3 - Occasionally
- 71 — 4 - Usually
- 114 — 5 - Almost Always/Always

*Source: Office of Financial Management 2021 State Employee Engagement Survey Results*

| *What opportunities remain in 2022?* | Much of the work has been done to standardize the UI caseload. This was largely out of necessity due to the large backlog and the volume of new staff who needed to be onboarded to handle the caseload. Before the agency can automate case assignments and scheduling (Recommendation #11.1), more caseloads need to be standardized. |
|---|---|
| | Some referring agencies continue to have a paper process that prevents OAH from going 100% paperless. Continue supporting those referring agencies who have not gone paperless to transition to the portal. |

### *Status of 2019 Review Recommendations*

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 11.1 OAH should partially automate the case assignment and scheduling tasks within PRISM. | 👍 | ↻ | ↻ |
| 11.2 Continue to transition information and processes to electronic records management and achieving the goal of becoming paperless will help further OAH's flexibility. | 👍 | ⧗ | ✔ |

| 👍 | 👍 | 👎 | ↻ | ⧗ | ✖ | ✔ |
|---|---|---|---|---|---|---|
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

### *New 2022 Recommendations*

There are no new recommendations offered in this area.

# D. OAH ORGANIZATIONAL STRUCTURE

*There are three, sometimes competing, organizational structures within OAH.*

Besides a hierarchical organizational structure, OAH was also organized by caseload and by geography. The Division Chief ALJ in each local office wore two hats, one providing caseload leadership and one providing local office leadership. With two of these positions vacant, the Deputy Chief ALJ filled roles in two offices with three major caseloads.

A caseload-based structure can provide a deeper understanding of the business needs for a specific caseload, as well as increase responsiveness and agility to meet the stakeholder's needs. A caseload-based structure is flexible from both a workload and a business process re-engineering standpoint. This structure is best suited for business lines that have constant change or those that have a specific, focused solution and implementation with clear goals, dedicated budgets, and are time and outcome based.

The challenge for OAH is having a blend of three types of organizational structures that are clear to staff, management, stakeholders, and the authorizing environment.

*Hierarchical Structure*

OAH is organized in a hierarchal structure, sometimes referred to as a bureaucratic or mechanistic structure. This structure has levels of management ranging from senior executives at headquarters to managers, supervisors, and leads at each of the local offices.

*Geographic Structure*

OAH provides services throughout the state which is large and presents some geographic challenges. The mountains and the overall size create barriers to easy travel and access to headquarter support. Local OAH offices manage and supervise staff, take care of local administrative details, and generally function as a local OAH unit.

*Caseload Structure*

The work OAH conducts is fundamentally the same across caseloads, hearing and independently resolving disputes between the public and state agencies with an impartial, quick, and easy to access process. There are differences between caseload categories such as the required reporting, communication, and work products. These differences are recognized by assigning caseload leads for each major type of caseload – Unemployment Insurance, Social and Health, and Specialized or Other Caseload. After July 1, 2022, caseload categories will be Unemployment Insurance, Social and Health Services, Regulatory, and Education.

***Conclusion #12: There is a lack of understanding of the current hybrid, or matrix, organization structure.***

***Synopsis of 2019 conclusion:*** The organizational structure creates tension and confusion among the staff about decision-making and communication throughout the organization.

Staff are unclear about who has the authority to give direction. Is it the leadership for the local site, the caseload lead, or someone in the headquarters hierarchy? Staff who ask questions may get conflicting answers, especially if the situation overlaps multiple structures. If they are given an answer, staff aren't sure if others have been given the same answer. As staff ponder these questions, time and effort are taken away from the important work of the agency.

Staff wished for more collaboration with their managers or supervisors. Senior ALJs and lead ALJs spend a lot of time gathering and analyzing data; assigning ALJs to cases based on their experience, expertise, and availability; and working with the legal professional support staff to schedule hearings. Without an onboarding program or training materials, supervisors and managers must individually train each new hire, making them less available to the rest of the team. All these tasks are important, but systems and tools could be put in place to alleviate this workload for managers and leads to give them more time to collaborate and support staff.

An explicit, functional, organizational structure that is easy for staff to understand would better support the organization's mission because staff would know whom to go to for support and decisions.

A RACI matrix would clarify which roles are *Responsible* for each type of action, which roles are *Accountable*, and, where appropriate, who needs to be *Consulted or Informed*. A RACI matrix would help ensure all impacted stakeholders are appropriately included in decisions that impact them.

***What has changed since 2019?***

There have been incremental organizational changes implemented since the 2019 review. Some of the earlier changes included:

- In October 2021, a third Deputy Chief ALJ position was created with a focus on risk, training, and rulemaking to help with the workload increases related to risk and safety because of the COVID-19 pandemic.
- In May 2020, the LAMs began reporting directly to the Deputy Chief ALJ with all division chiefs and LAMS reporting to the same deputy.
- Other new leadership positions were created to ensure focus on, and lead efforts related to accessibility; privacy and public

disclosure; diversity, equity, and inclusion; training; and project management.

- The agency increased its staffing by approximately 50% to support the increase in the UI caseload. Additional administrative positions were added in HR and Financial Services.

### 2019 Organizational Structure
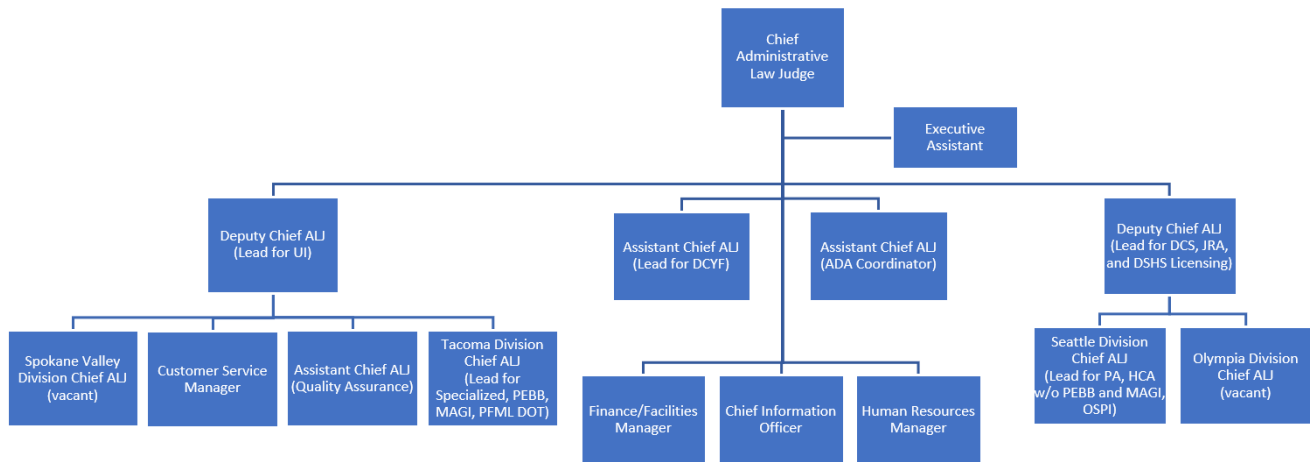


In March 2022, changes were made to rename and reorganize divisions as well as clarify LAM authority over support staff processes, taking the vision of "OneOAH" a step further. Supporting the Deputy Chief are four Division Chiefs who each have a caseload or caseloads they lead, regardless of the geographic location of those working on the caseload. Along with the Deputy Chief of Operations, there is the Deputy Chief of Strategy and Performance and the Deputy Chief of Risk, Training, and Rulemaking. The leaders and LAMS shared that they find great value in the new structure.

### 2022 Organizational Structure
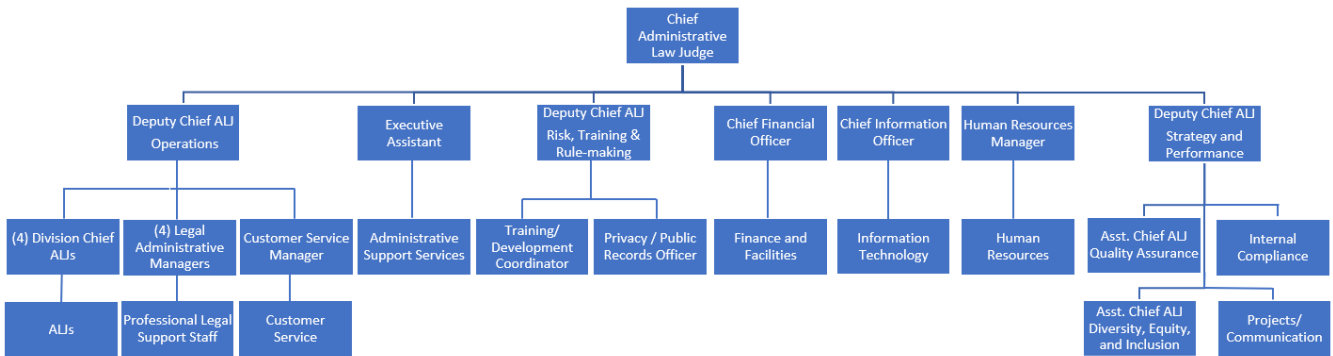
*What opportunities remain in 2022?*

The value or benefit of the organizational changes are not clear to all staff. Some interviewees reported feeling disconnected from decisions. They are not sure why decisions seem to take a long time. Some felt there are too many meetings.

There is a considerable gap in understanding regarding the advantages of and appreciation for the organizational changes across the levels in the organization. Some ALJ interviewees believe the organizational changes have made things more confusing. Input included:

- Person 1: "Our management team used to be a lot more cohesive. Now we come to a meeting and hear about decisions. Now I am a conduit for decisions."

- Person 2: "The new organizational structure undermines the local management team. It is bifurcated."

- Person 3: "It undermines the Division Chief. There aren't divisive offices, though. The sky isn't falling, but that is because of the people involved."

- Person 4: "It doesn't work as well now. I can't just go to the Division Chief. It is inefficient."

- Person 5: "The new way is a mistake. There are competing interests. Support staff may not support something [beneficial] because it is more work. They have more influence now."

- Person 6: "Seems like there are 10 times more meetings to maybe get an answer. There are a lot of middle people and no longer a direct line. It feels like more bureaucracy. It takes a long time to get an answer. There are too many committees and meetings."

Responsibility for decisions and opportunities to provide input are still confusing to staff. A RACI matrix has not been created to help communicate to staff who makes certain types of decisions and who will be consulted and informed during the decision-making process.

In 2020 the Memorandum of Understanding between the State of Washington and Washington Federation of State Employees was signed. The labor organization asked for a formal policy on decisional independence. A committee was formed with representatives from the union and the four Division Chief ALJs. At the time of this follow-up assessment, the proposed documentation had been provided to and was being reviewed by the union.

## Status of 2019 Review Recommendations

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 12.1 Update the organizational structure to position the agency for success and infuse management expertise with well-defined roles and responsibilities and proven skills and abilities. An option of an updated organizational structure and RACI matrices for the agency is in Appendix 4. Other factors should be considered as OAH adopts a new organizational structure: | 👍 (Agree as Modified) | ✔️ Completed | ✔️ Completed |
| 12.1.1 Increase staff capacity for project management, Lean, organizational change management, communications, fiscal and facility analysis, and business analysis. (See Conclusion #15 for additional information.) | 👍 (Agree as Modified) | ⏳ In Progress | ⏳ In Progress |
| 12.1.2 Retain the caseload lead designation with each Division Chief ALJ. This will require a matrix relationship across the agency with the senior ALJs, Lead ALJ's, and Line ALJs. | 👍 (Agree) | ✔️ Completed | ✔️ Completed |
| 12.1.3 Retain the direct reporting relationship of the legal professional support staff to the local Division Chief ALJ. | 👎 (Disagree) | ✔️ Completed | ✖️ Closed - No Further Action |
| 12.1.4 Establish a matrix relationship between the Legal Administrative Manager in each office with the Deputy Chief ALJ for Judicial Support | 👍 (Agree) | ✔️ Completed | ✔️ Completed |
| 12.2 OAH should establish a clear, bright line within the organization structure between the billing, funding, judicial support part of the agency and the ALJs to ensure decisional independence. | 👍 (Agree as Modified) | ✔️ Completed | ✔️ Completed |
| 12.3 OAH should adopt a RACI matrix for management positions to clearly identify decision-making authority for the hierarchical structure, the local office structure, and the caseload structure. | 👍 (Agree) | ⏳ In Progress | ⏳ In Progress |
| 12.4 OAH should develop a communication plan to advise staff of the new organizational structure, to share the RACI matrices, to explain where they will fit into the structure, and to identify who they will report to in the new structure. | 👍 (Agree) | ⏳ In Progress | ⏳ In Progress |

| 👍 Agree | 👍 Agree as Modified | 👎 Disagree | 🕐 Not yet started | ⏳ In Progress | ✖️ Closed - No Further Action | ✔️ Completed |
|---|---|---|---|---|---|---|

## New 2022 Recommendations

There are no new recommendations offered in this area.

*Conclusion #13: Some staff fill multiple roles within the organization.*

*Synopsis of 2019 conclusion:* The confusion about competing organizational structures extends to roles and responsibilities. Individuals who are clearly in one of the organizational structures often fulfill roles and have responsibilities in other organizational structures.

There is limited staff capacity for a variety of agency roles. When leaders and staff are wearing multiple hats, it is more difficult for other staff to track who to go to for the support they need. These staff already have full-time work that requires their attention, so the additional roles take their attention away from their core work and performance management becomes more complex. The result is an agency that is more reactive than proactive.

OAH must identify, clarify, and revise position descriptions to reflect all roles and responsibilities, job duties, expectations, core competencies, and decision-making authority.

Staff can help to identify all the roles and responsibilities that are now directly, or indirectly, assigned to individuals or groups but not outlined in position descriptions. This work will make evaluating the agency's staff capacity easier.

Once position descriptions are updated, the individual performance and development plans for each employee should be updated to facilitate communication between a supervisor and an employee about the linkage between the employee's expected results and the organization's goals and performance measures.

There are several supervisory roles, mostly the LAMs, that have too many direct reports. A best practice for HR management is not to have more than eight direct reports. Some LAMs have as many as 12 to 16 direct reports. Reducing the span of control will allow managers to focus more attention on collaborating with their staff, communicating, mentoring, and providing feedback.

*What has changed since 2019?*

Position descriptions, including roles and responsibilities and competencies have been updated. The updated position descriptions address matrix relationships and matrix management responsibilities.

For the 2021 Legislative session, a RACI matrix was used for employees involved in bill review, fiscal note preparation and responding to legislative queries. A post-session discussion reviewed what worked well and identified improvement opportunities.

*What opportunities remain for 2022?*

The lessons learned from the RACI matrix used during the Legislative session could be applied more broadly across the organization. Not every decision needs to be described, but categories or types of decisions could be outlined so staff have visibility in opportunities to provide input on the decisions impacting their work. (See Recommendation 12.3)

*Status of 2019 Review Recommendations*

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 13.1   Using the RACI matrix, update position descriptions to include all roles and responsibilities within the organization. | 👍 | ✔️ | ✔️ |

| 👍 | 👍 | 👎 | 🕐 | ⏳ | ❌ | ✔️ |
|---|---|---|---|---|---|---|
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

*New 2022 Recommendations*

There are no new recommendations offered in this area.

*Conclusion #14: OAH's new hiring process has created questions about roles and responsibilities for some staff.*

**Synopsis of 2019 conclusion:** OAH recently replaced a siloed hiring process with a more centralized process. The new hiring process has been significantly revised to address concerns raised by managers in the local offices. During interviews and work sessions, managers shared that the current hiring process is not completely understood and that there is confusion around the roles and responsibilities. The perception is that the hiring process is not as transparent or inclusive of local office management input as desired.

The current hiring process should be reviewed to assess if the desired results of the last revision were achieved and if any adjustments are necessary. Communicating the reasons or "the why" behind the current process elements to the managers will alleviate some of the confusion. Staff do not feel included in the current hiring process and feel like their recommendations go unheard, or worse, are heard but ignored without any explanation. OAH should further refine the new process for hiring staff to clearly define roles and responsibilities.

As much as possible, a wide range of roles across organizational levels should be included on the hiring committee or in the hiring process. It is

particularly important that local office and role-based leaders directly impacted by hiring decision represent their team in these processes.

This cooperative approach will increase the transparency of the process, will increase buy-in from managers and staff, and will allow for a broader perspective, with more diverse opinions.

***What has changed since 2019?***

As a result of the UI caseload influx, the size of the agency increased nearly 50%. HR quickly recruited the necessary staff, some temporary and some permanent, to support the caseload.



**Expansion of Workforce**

OAH has expanded its workforce dramatically in response to the pandemic and the record high wave of unemployment insurance appeals. This steady march of hiring and training has increased the OAH team by nearly 50% since the start of the pandemic.

| OAH Team Size (headcount) | | | |
|---|---|---|---|
| 7/2019 | 7/2020 | 7/2021 | 1/2022 |
| 188 | 196 | 269 | 275 |
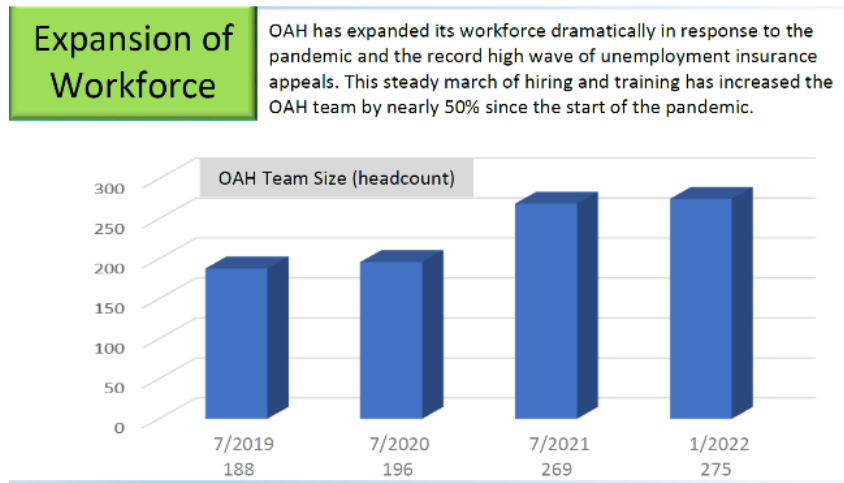
*Source: OAH 2021 Annual Report*

***What opportunities remain for 2022?***

HR needs to formalize and document the current hiring process and make the document(s) available to supervisors and managers.

Staff morale varies across organizational levels and caseloads:

- All but one OAH office have two LA4 positions. Staff reported that spreading the work across a larger team freed up time, enabled them to participate in workgroups, and improved outcomes. The Seattle office has not achieved the same level of improvement and positive outcomes. Staff felt this could be because there isn't an LA4 but there could be other reasons why the Seattle office has not seen the same improvements. Further assessment could identify the root cause.
- There are different reactions to the new organizational structure across positions. Morale has improved for some and decreased for others. There are opportunities to increase morale for those who feel they were negatively impacted.

Some staff feel decisions take a long time and they still do not understand why decisions are made. Sometimes a workgroup makes a

recommendation to the executive management team and a different direction is selected, but it is not clear why.

*Status of 2019 Review Recommendations*

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment of Status |
|---|---|---|---|
| 14.1 With the assistance of Human Resources (HR), refine the current hiring process and document and distribute the process to managers and supervisors. | 👍 | ⏳ | ⏳ |
| 14.2 Develop a RACI for the updated hiring process to define the authority for each level of management within the agency. | 👍 | ⏳ | 🕐 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 👍 Agree | 👍 Agree as Modified | 👎 Disagree | 🕐 Not yet started | ⏳ In Progress | ❌ Closed - No Further Action | ✔ Completed |

*New 2022 Recommendations*

The following new recommendation is offered to further improve program outcomes and address current issues:

14.3 Evaluate staffing across caseloads so staff supporting each caseload have similar opportunities to participate in initiatives and improve their processes.

| **Conclusion #15: OAH lacks the necessary staff capacity, expertise, and skills for agency operational support.** | **Synopsis of 2019 conclusion:** To be efficient and effective, agencies need appropriate technical and management expertise and skills, plus sufficient resources. According to the analysis of agency data, staff interviews, work sessions, and surveys, OAH needs additional staff capacity, expertise, and skills to accomplish agency operational support effectively and efficiently. |
|---|---|
| | OAH has several organizational and role gaps that should be filled for the agency to function as a fully formed governmental entity. Increasing staffing levels is always a difficult decision and OAH should be strategic in requesting additional resources by starting conversations now with the referring agencies, the Governor's Office, and OFM for decision packages in their 2020 supplemental and 2021-23 budget requests. Some of these gaps may be addressed through realignment of current duties and positions. Others may need additional funding authority. |

*What has changed since 2019?*

The assessment statuses for the recommendations related to Conclusion #15 should not be misinterpreted as a lack of progress. Major improvements have been accomplished in every area. The status shows as "in progress" but that is entirely indicative of the agency's commitment to continuous improvement.

Not only has progress been made to create consistent policies, procedures, and templates, but habits are being formed. The agency has multiple caseloads and over 500 templates. These won't all be addressed overnight, but the highest priority areas have been addressed and future work is being prioritized and tracked.

The agency has a robust program to audit the overall quality of the appeal process and the referring agencies provided feedback that their needs are well met. The most improved caseload is the UI caseload. Other caseloads are pending similar standardization and tool improvements.

There is skepticism about how realistic the development and implementation of model rulemaking is because of the significant impact and stakeholder engagement that would be required. If substantive progress is intended, a fully allocated resource should be assigned to facilitate model rulemaking initiatives. It may not be realistic to accomplish significant improvement when led by someone with multiple, high-priority assignments.

OAH is an agency filled with individuals with the analytical expertise necessary to analyze issues, identify trends, and develop data driven options. The issue identified in the 2019 assessment was capacity or availability. Improvements such as the creation of the Decision Library allow ALJs to focus on case analysis instead of administrative searching. The caseload round-table meetings also facilitate statewide collaboration and collective brainstorming of important issues.

The addition of positions such as a project manager, budget analyst, and training coordinator has allowed the agency to expand staff skills in managing caseloads, managing finances, interpersonal communication, leadership development, managing change, building teams, and meeting facilitation. Interviewees were appreciative of the work of the new training coordinator. The staff working on non-UI caseloads are eager to experience similar results.

Moving to a caseload-based model rather than a geographically based model better prepared the agency for standardization of processes. The UI caseload was the first to be fully developed. Additional caseloads need the same focused effort.

*What opportunities remain in 2022?*

There is little else to offer than, "Continue doing what you have been doing." Some possible additions heard during interviews include:

- developing training programs for other caseloads;
- in consultation with HR, integrate professional development into the standard performance management processes; and
- develop a leadership development program.

### Status of 2019 Review Recommendations

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 15.1 Increase resource capacity and expertise to adequately and effectively manage agency administrative and judicial support activities to: | 👍 Agree | ⧗ | ⧗ |
| 15.1.1 Lead the consistent use of policies, procedures, templates, and other tools across specified caseloads. | 👍 Agree | ⧗ | ⧗ |
| 15.1.2 Lead projects to support current business needs and improve the quality and consistency of the appeal process. | 👍 Agree | ⧗ | ⧗ |
| 15.1.3 Lead the development and implementation of model rule-making strategy in close coordination with the internal agency and external stakeholders. | 👍 Agree | ⧗ | ⧗ |
| 15.1.4 Provide analytical expertise within the agency to analyze issues, identify trends, and develop data driven options for decision makers to consider. | 👍 Agree | ⧗ | ⧗ |
| 15.1.5 Lead the implementation of updated policies, the implementation of the communications and stakeholder plans, and the implementation of the performance management plan. | 👍 Agree | ⧗ | ⧗ |
| 15.1.6 Lead the development of a staff training program to build commonly needed skills in judicial or adjudication operations, interpersonal communication, leadership development, managing change, building teams, and meeting facilitation. | 👍 Agree | ⧗ | ⧗ |

| 👍 Agree | 👍 Agree as Modified | 👎 Disagree | 🕑 Not yet started | ⧗ In Progress | ✖ Closed - No Further Action | ✔ Completed |
|---|---|---|---|---|---|---|

### New 2022 Recommendations

There are no new recommendations offered in this area.

## E. OAH TRAINING AND DEVELOPMENT

***Standards and Promising Practices***

Training and development are a vital part of any organization's resource and function management. Both activities are essential to improving the organization's performance, productivity, and outcomes. Often, training and development are lumped together and are thought of as one thing. Both activities must be continuous and aligned to the organization's mission and vision. They must be funded appropriately, and they must become part of the culture of the organization. Training is usually thought to be a system, provided by the organization, to develop knowledge and skills in an employee, or team, that aligns to the requirements of their job. Development is usually thought to be an activity specifically designed to help individuals learn and grow.

***Conclusion #16: There are inconsistent training and development opportunities within OAH.***

***Synopsis of 2019 conclusion:*** Training and development efforts must be identified, aligned to the overall strategic needs of the organization, and funded appropriately and continually. With no dedicated training budget, efforts end up being ad hoc for staff to pile on top of existing responsibilities. Funding for training is critical for the ongoing success of the organization and to the morale of the agency.

Other revolving fund agencies have a pool of training hours. OAH should also have a training and development budget. This budget should either be part of the hourly rate charged to each agency or part of the agency overhead, distributed to the referring agency on a percentage basis. The budget should be developed after agency requirements have been analyzed, and costs for materials, training, platforms, staff, and caseload needs are understood. Once the budget is established, it must be kept current, year after year, and account for growth in OAH caseload and FTEs.

OAH should have training materials that provide access to development opportunities for specific roles, caseloads, and processes for all levels of staff, including leadership training, coaching, and development opportunities for agency management. These trainings should be consistent throughout the agency and should not vary from site to site, caseload to caseload, or role to role, except where explicitly necessary.

Training and development opportunities should be constructed with the help of subject matter experts. The plan to deliver should include cross training efforts and opportunities, which will add greater stability for the agency.

OAH should utilize modern training platforms that are adaptive and can record and archive not only staff participation but can streamline training. This will allow staff to participate at a distance, maintaining a cohesive training experience for all, quickly update and revise materials and course of instruction, and many other advantages.

This platform can also be used for external stakeholders needing training or information on OAH processes. With a modern training platform, role-based permissions allow for internal and external access to be differentiated.

External stakeholders would also benefit from training materials and opportunities. These trainings should support specific caseloads and processes that will help referring agencies understand OAH processes and how referring agencies can and should interact with caseloads.

*What has changed since 2019?*

In Spring of 2020, OAH developed, implemented, and began administering a standardized training program for new ALJs on the UI caseload. The training program included newly hired ALJs and mentors to spend one-on-one time with the new ALJs until they transitioned to independent work carrying a full caseload. During the first six-weeks of training, the ALJ progresses through three stages (observer, to drafting orders with assistance, to ALJs holding their own hearings). Throughout the six-week training period, the new ALJ also receives formal instructor-led training in multiple disciplines at OAH (PRISM, Case Quality Review (CQR), UI law).

In June 2020, a training coordinator was hired. The training coordinator led a preliminary assessment, evaluated surveys, conducted workgroups, and interviewed staff to determine the current and future state of training. OAH has also purchased Articulate (a robust training tool) to facilitate online training. The new coordinator has held six general development trainings (stress, etc.) and has published a calendar for future trainings.

The Training Program Framework is currently being developed and executed. The framework includes three independent focus areas: training infrastructure, training content, and individual development. Executing the Training Program Framework started in June 2020 and is scheduled to complete in August 2023.

Prior to the 2019 assessment, individual supervisors were responsible for onboarding new staff. OAH now has a robust two-day new employee orientation (NEO) training program. (See Conclusion #3: There are many opportunities to increase organization-wide process consistency at OAH.)

Since the 2019 assessment, OAH has shifted the organizational structure from location-based to caseload-based. This has provided a foundation for standardizing training that is focused on caseloads rather than locations.

To ensure referring agencies have the knowledge necessary to interact with OAH regarding hearings, the OAH IT Department has provided portal demos.

In 2020, OAH collaborated or participated as presenters on several trainings and events:

- ALJ Training for Child Care Licensing Cases, training was in collaboration with Department of Children, Youth, and Families (DCYF) and Alliance for Child Welfare Excellence. Participants included defense bar attorneys, Assistant Attorneys General, and Washington State Bar Association members.

- Meet & Greet Sessions with Chief Review Judges from ESD, Health Care Authority (HCA), DCYF and DSHS.

- UI Appeals Training provided to the Office of Civil Legal Aid and the Unemployment Law Project. Presented by OAH Assistant Chief.

- Suitable Representational Accommodation Rule presentation to the Washington Network of Adjudicatory Agencies. Presented by OAH Assistant Chief.

- Department of Financial Institutions (DFI) Overview & Adjudications presentation to DFI, OAH and WSBA Admin Law Section presented by OAH ALJ.

- Decision Writing presented to the National Association of Unemployment Insurance Appeals Professionals presented by OAH Assistant Chief.

- OAH History and Unique Role as a Central Panel Adjudicatory Agency OAH Chief as moderator.

**What opportunities remain in 2022?**

Great progress has been made regarding training. Additional opportunities include:

- Continue to implement the Project Management Office (PMO).
- The other caseloads should follow UI caseload approach in developing a robust mentorship and training program.
- Continue to execute the Training Program Framework.

### Status of 2019 Review Recommendations

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 16.1 Establish a dedicated budget for training and development. | 👍 Agree | ⏳ In Progress | ⏳ In Progress |
| 16.2 Work with the Business Transformation PMO for staff support creating a training plan for internal staff by role, caseload, and process. (See Recommendation #15.1.6.) | 👍 Agree | ⏳ In Progress | ⏳ In Progress |
| 16.3 Utilize modern training platforms. | 👍 Agree | ⏳ In Progress | ✔ Completed |
| 16.4 Create and conduct training for external stakeholders. | 👍 Agree | ⏳ In Progress | ⏳ In Progress |

| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |
|---|---|---|---|---|---|---|
| 👍 | 👍 | 👎 | 🕐 | ⏳ | ❌ | ✔ |

### New 2022 Recommendations

There are no new recommendations offered in this area.

# F. OAH STAKEHOLDER MANAGEMENT

***Standards and Promising Practices***

Stakeholder management is a critical component to the successful delivery of any project, program, or activity. The aim of stakeholder management is to influence stakeholder attitudes, decisions, and actions for mutual benefit.

The first steps in stakeholder management are to identify and prioritize stakeholders. A stakeholder is any individual, group, or organization that can affect, be affected by, or perceive itself to be affected by a program or an agency. OAH staff work with a variety of stakeholders in their daily work including referring agencies; appellants; party representatives; respondents; interpreters; other adjudicatory and legal organizations; OFM; and the Legislature. What OAH says, when they say it, how, and to whom they communicate, affects the involvement and perceptions of all these stakeholders.

***Conclusion #17: OAH lacks a robust stakeholder management strategy.***

***Synopsis of 2019 conclusion:*** Referring agencies communicate primarily through the Chief ALJ, the Deputy Chief ALJs, the Division Chief ALJs, or other headquarters staff. This is appropriate and should continue. However, communications are mostly reactionary in nature.

A Communication Plan describing the strategy for providing the right information, to the right people, in a useful format, at the proper time would be beneficial to the organization. The mere act of consciously planning communication can transform stakeholder management from reactive to proactive.

OAH staff and stakeholders wanted to see improvements in communication within and outside the agency. The themes of lack of consistency, follow through, understanding of decisions, and unclear roles and responsibilities were prevalent throughout the feedback received from the stakeholders who participated in the survey and interviews.

At a minimum, each Division Chief ALJ, who has been assigned as lead for a specified caseload, should meet with the referring agencies for those caseloads every quarter. The Division Chief ALJ should schedule periodic check-ins with the senior ALJs, and if possible, lead ALJs as well. Topics for these discussions may include program or policy changes, technology opportunities, processes, procedures, forms, and templates, lessons learned from the previous quarter, trends, forecasts of future caseloads, and communication required to the Line ALJs and legal professional support staff.

External stakeholder's evaluation of OAH staff was less positive than OAH's staff self-evaluation, except for the perception of expertise and ability of

OAH managers.

*What has changed since 2019?*

Referring agencies know who their point of contact is and seem satisfied with the amount of communication they are receiving from OAH. Referring agencies feel that OAH is open to feedback.

OAH has documented the executive management team member with external relationship responsibilities including who is primary and backup, and which stakeholders they are responsible for communicating with, and their authority, responsibilities, and reporting requirements.

The referring agencies interviewed for this assessment were extremely satisfied with the services received by OAH. The agencies with the bulk of services had nothing but praise to share about OAH services from the last few years.

*What opportunities remain in 2022?*

All recommendations have been satisfied and there are no new recommendations in this area.

There does not appear to be a standard template or agenda that include action steps, assignments, and due dates for recurring check-ins with referring agencies. Based on best practices, it may be worthwhile to establish a template with minimal standards prior to it becoming necessary.

*Status of 2019 Review Recommendations*

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 17.1 Develop a stakeholder management plan and a communication plan and review its progress on implementation of the plans on a quarterly basis. | 👍 Agree | ✓ | ✓ |
| 17.2 Establish a primary point of contact for stakeholder management for each caseload with clear roles, responsibilities, and decision-making authority. | 👍 Agree | ✓ | ✓ |
| 17.3 Establish a standard agenda for quarterly meetings with key stakeholders to include program or policy changes, lessons learned, trends, and forecasts of future caseloads. | 👍 Agree | ✓ | ✓ |
| 17.4 Adopt common meeting management practices for the meetings, including developing and issuing agendas in advance, and documenting outcomes for each agenda item with action steps, assignments, and due dates. | 👍 Agree | ✓ | ✓ |

| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |
|---|---|---|---|---|---|---|
| 👍 | 👍 | 👎 | ⏱ | ⌛ | ✕ | ✓ |

*New 2022 Recommendations*

There are no new recommendations offered in this area.

| | |
|---|---|
| ***Conclusion #18: OAH does not have a formal advisory council.*** | ***Synopsis of 2019 conclusion:*** OAH currently uses an advisory committee to handle suitable representation issues. However, there is not a formal structure with the referring agencies to take on issues such as uniform policies, rules, procedures, and practices with the administrative hearing system. These discussions are handled more informally. |

An advisory council could include a review of current practices and procedures and technology opportunities within both the judicial court system and the administrative hearing system, with a constructive exchange of ideas and proposals.

The council can also identify issues that the ALJs should address and can review and comment on matters relating to administrative hearings, the agency operational processes, and policies and regulations proposed by the Chief ALJ.

During in-person interviews and work sessions with external stakeholders several suggestions were made on how to improve communications and stakeholder relationships with technology. Some of these ideas included:

- improving notice of hearing and written orders for appellant use by ensuring they are written in plain language;

- completing the portal for appellants, referring agencies, and other stakeholders so they can access the status of appeals, hearing notifications, and other relevant information;

- completing electronic transfer of case file and exhibits between agencies to reduce duplication of effort; and

- getting more information regarding continuances and defaults and the reasons why.

These ideas for technology improvements could be discussed at the advisory council for review and prioritization before going to the OAH governance committee for final decision-making.

*What has changed since 2019?*

OAH is leveraging existing committees rather than adopting an advisory committee. This method seems to be working for referring agencies.

The recommendation in 2019 was meant to create a forum for OAH to efficiently work with stakeholders to address the input mentioned above. OAH has leveraged other methods for gathering feedback and addressing stakeholder concerns. Improvements have included:

- Hearing and written orders for appellants have been improved by

ensuring they are written in plain talk. (See Recommendation #1.1)

- The Participant Portal has been completed.
- The Electronic Case Records project was completed in March of 2020.
- PRISM improvement recommendations can be submitted by referring agencies. OAH reviews recommendations and prioritizes enhancements.

*What opportunities remain in 2022?*     Keep doing what you're doing.

### *Status of 2019 Review Recommendations*

| 2019 Review Recommendations | | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|---|
| 18.1 | Create an agency advisory committee to work directly with stakeholders to review model rules, policies, technology improvements, and initiatives, such as plain talk and paperless, to understand their potential impact on other organizations. | 👍 | ✔ | ✔ |
| 18.2 | Develop and post a charter for the advisory committee that contains, at a minimum, its purpose, members, responsibilities, and meeting expectations. | 👍 | ✔ | ✔ |
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

### *New 2022 Recommendations*

There are no new recommendations offered in this area.

## G. OAH BILLING STRUCTURE AND TIME REPORTING

***Central Panel Funding Methodologies***

As discussed in the previous 2019 review, Washington was the only state that relied solely on an hourly billing rate. Most other states were a combination of various funding models including an allocated assessment, direct appropriation, and hourly billing rate. We did not verify if that was still the case in this follow-up review.

No matter which funding methodology is chosen, states need to make accurate forecasts of their required workload so realistic budget appropriations can be made that are acceptable to each state's authorizing environment (Legislature, Governor's budget office, etc.). This usually requires panel agencies to keep track of hours worked per case, so they can forecast future workloads and meet agency requirements for state and federal budget and performance reporting.

The strengths of the hourly billing rate to referring agencies include:

- Caseload increases are covered fiscally with the pay as you go model.
- Incentivizes agencies to settle disputes that might otherwise result in hearings due to charging agencies the full cost of administrative hearings.
- Billing is directly proportionate to the number of hearings.
- Agency can hire additional staff as needed when caseload spikes occur.

However, there are also challenges:

- Presents the greatest opportunity for agencies to exert financial pressure on the central panel.
- ALJs may spend less time on individual cases out of concern for costs.
- The perception of partiality and lack of neutrality is strongest where the requesting agency is billed directly for the cost of its hearings.
- This approach can also create financial instability if hearing volumes fluctuate unpredictably such as the case with unemployment benefits.

***Washington State's Approach to Funding***

OAH projected billings are a component of the state's central service model. Any billing structure or rate changes are first approved by the OFM Budget Division and allowances for a negative cash balance are approved by the OFM Director.

When OAH was established in 1981 and began its work in 1982, it had only two major referring agencies, ESD and DSHS. OAH billed those two referring agencies based on an FTE (full time equivalent) model, with specific staff assigned and billed to ESD and DSHS. Now, OAH receives cases from 30 different agencies with 160 different programs.

As the number of referring agencies and the variety of caseloads have grown, Washington's OAH approach to funding has evolved.

- Prior to FY 2014, billings were based on an assessment of full-time equivalent (FTE) staff assigned to a specified caseload.

- In FY 2014, this methodology shifted from an FTE assessment to an hourly billing basis in response to a desire on the part of referring agencies to have more granular data driving the allocation of costs. Despite closely monitoring this change, the cash balance for the revolving fund went negative due to the difference between billing in advance based on FTEs versus billing based on actual hours at the end of the month (see chart below). This required OAH to seek an exception from OFM in order to continue operations with a negative cash balance. The negative cash balances persisted through FY 2020.

- In September 2020, based on the previous review, OAH requested authority from OFM to revise its billing methodology beginning in January 2021 to a two-rate structure. Under the new structure, there is one hourly rate for billable time of ALJ's and another for the billable time of legal professional support staff. This rate change, combined with the effects of the caseload increase due to the pandemic, has boosted revenues and allowed OAH to close FY 2021 with a positive cash balance of $2.9 million for the first time in several years.



**Cash balance at June 30 of each year**

| | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 | FY 2021 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1,207,242 | 1,277,643 | (681,946) | 1,101,847 | (92,356) | (93,438) | 37,203 | (478,450) | (945,197) | (895,633) | (1,717,365) | 2,919,118 |

Chart annotations: "Shift from Pre-Bill in Advance to Billing Actual Hours at end of month" and "Effects of the increased caseload due to pandemic and the change in fee structure"

| 2009-11 | Transfer of Financial and HR from OAH to Small Agency Services | 2011-13 | Small Agency Services moved to Dept. of Enterprise Services (DES) | 2013-15 | Shift from Pre-Bill based on FTEs to Billed on Actual Hours | 2015-17 | Financial/ HR duties transfer back to OAH from Small Agency Svs (except payroll) | 2017-19 | Changed to 3 cost pools based on actual hours | 2019-21 | Changed to 2 rates based on actual hours effective Jan 2021 |

| FTE Assigned | $120.00 per ALJ hour | $130.34 per ALJ hour | 3 cost pools - $93 per hour ALJ, $54 per hour Support Staff, plus Overhead/Indirect | 2 rates - $180 per hour ALJ, $110 per hour Support Staff |

***The single hourly rate was adopted in the 2013-15 biennium.***

The hours used in the rate calculation in both 2013-15 and 2015-17 biennia included what was termed "an uplift" to cover the support and administrative staff and other fixed indirect/overhead costs. This process was confusing and not as transparent as many referring agencies would like. They requested more visibility into what the costs were.

***A change was made going into the 2017–19 biennium to move from a single hourly rate to three cost pools.***

In FY 2017, the billing changed from one hourly rate charged to all referring agencies to a more complex rate structure with three cost pools.

- Cost Pool 1: Administrative Law Judge time billed at a fixed rate of $93 per hour based on agency actual use; this pool covered the costs of judge salaries and benefits, supervision, and caseload driven costs such as travel.

- Cost Pool 2: Legal professional support staff time billed at a fixed rate of $54 per hour based on agency actual use; this pool covered the costs of legal professional support staff salaries, benefits, supervision, and some caseload driven costs such as paper, postage, and interpreter services.

- Cost Pool 3: Centrally provided services covered the cost of administrative salaries and benefits, as well as central service charges from other agencies, leased facilities, and equipment, distributed as a share of hours in Cost Pools 1 and 2.

As was discussed in the previous review, there continued to be confusion reported by the referring agencies on what was included in Cost Pool 3 and how that affected their bill. The "indirect/overhead" amount was also difficult for referring agencies and other interested parties to predict for budgeting purposes.

***The current billing structure was changed in January 2021 from***

In the 2019-21 biennium, OAH simplified its timekeeping entries and billing methodology and established rates to increase the financial fitness

***three cost pools to two rates.***

of its primary revolving fund account, resulting in both a positive cash and fund balance at year-end of FY 2021.

With approval from OFM, the billing structure changed from <u>three</u> cost pools to <u>two</u> rates. There is not a rate for centrally provided indirect/overhead services. Instead, the two rates for ALJs and legal professional support staff are set high enough to cover the total costs of the agency.

- Rate 1: Administrative Law Judge time is billed at a fixed rate of $180 per hour based on referring agency actual use.
- Rate 2: Legal professional support staff time is billed at a fixed rate of $110 per hour based on referring agency actual use.

The updated methodology has been reported by the referring agencies as being easier to understand. The OAH invoices can be directly tied to the hours that are reported in the OAH timekeeping system so agencies can see the costs associated with an appeal.

***Conclusion #19: The current billing methodology requires detailed time tracking.***

***Synopsis of 2019 conclusion:*** Billing by the hour requires all agency staff to record their time and leave by the 1/10th of the hour. ALJ's and legal professional support staff time reporting requirements are the same except for the following level of reporting detail:

- ALJs are required to enter their time by docket number.
- Legal professional support staff record their hours by docket number if they are working a specific case or by a program "bucket" when they are working on a group of cases for that program.

The billable hours are used on the invoices sent to referring agencies applying the two rates described above ($180 per hour for ALJ's and $110 per hour for support staff). The rates charged to agencies assume all of the ALJ and legal professional support staff hours and costs plus are set high enough to cover the administrative costs of running the agency and to provide adequate fund and cash balances in the revolving fund.

***Staff were questioning if their decisional independence was being challenged.***

At the time of the last review in 2019, staff were questioning if their decisional independence was being challenged with the hourly billing method. Their preferred funding method was a direct appropriation by the Legislature. While this is a recognized as a concern, given the current authorizing environment, it would not be a wise recommendation to switch from the current hourly billing methodology to a direct general fund appropriation. A change to direct fund appropriation will change the funding dilemma from the perceived lack of appearance of impartiality

and fairness, to one where OAH is competing for a small piece of the highly sought after, highly competitive, general fund pie. In addition, the referring agencies and the authorizing environment would lose the ability to see the relationship between cases sent to OAH and their associated costs.

However, the department has recognized that ALJs should be isolated from influences that might sway decisions. One element supporting this independence is establishment of the clear, bright line in the organizational structure separating the ALJs from potential influences. Based on the feedback received in 2019, staff needed assurance that questions or issues around billing and hours coming from referring agencies are handled by senior ALJs or above in the organization to ensure decisional independence. Currently, Deputies refer all billing inquiries to the Finance and Facilities Unit first to make sure it is not a technical issue before questions go to a senior ALJ. (See recommendation #12.2.).

**What has changed since 2019?**

*OAH simplified its billing methodology to two rates.*

In January 2021, after consulting with referring agencies and with approval from OFM, OAH modified its billing methodology with one hourly rate for ALJs and a separate hourly rate for legal professional support staff. The billing is now only for the time worked directly on the referring agency's caseload by program. The ALJ and legal professional support staff rates are fully loaded to cover all direct, indirect, and overhead costs and include assumptions for holidays, leave, training, and non-billable time.

This methodology was chosen among four options considered by OAH, OFM, and the referring agencies:

- Option 1: Maintain the three cost pools and rates for ALJs, legal professional support staff, and overhead/indirect.
- Option 2: Maintain three costs pools and increase the ALJ and legal professional support rates.
- Option 3: Maintain three costs pools but use a set annual allocation for indirect/overhead and increase the ALJ and legal professional support rates.
- Option 4: Fully load ALJ and legal professional support staff rates instead of having overhead/indirect cost pool as a separate rate.

The decision to implement option 4 was based on the simplicity and improved understandability of the billing when received by the referring agencies. The rate structure is also perceived as being fairer and more transparent when staff and stakeholders are reviewing actual costs and is easier to use in projecting costs.

The enhancements to the billing structure and associated processes, as well as an emphasis on stakeholder communications and involvement has benefitted OAH's stakeholder relations. It has made it easier for stakeholders to understand and trust the billings and for both OAH and stakeholders to be able to produce sound financial projections. It was reported by several agencies that the partnership with OAH has improved since there is no longer a need to challenge every billing that is received for OAH services. Agencies can do a quality check with a sample of the data they receive with their billings instead of doing a comprehensive review of each individual line item. This is big change from the 2019 review when the OAH fiscal office was receiving multiple billing questions with each invoice cycle. They are now reporting receiving very few questions or concerns regarding the agency invoices and accompanying time reporting spreadsheets.

*OAH updated the agency policy for timekeeping and is providing training.*

In addition to the simplified rate structure, the OAH has updated their agency policy (#110) for Timekeeping to make it clear that the Finance and Facilities Unit, Deputy Chief ALJ's, and Division Chiefs will work with referring agencies on any billing questions that may come up.

OAH employees are only responsible for reporting their time and leave in NTMS (OAH's timekeeping system) and ensuring that it is accurate. There is also the ability within PRISM to allow employees to enter their time for that case and have it populate the data into NTMS. Staff then don't need to re-enter this information into NTMS. This has also improved the accuracy of the data.

Timesheet training sessions have been provided by the Finance and Facilities Unit on the importance of staff reporting their time in NTMS and how it ties to the billing to referring agencies. This training has also been incorporated into the department's new employee orientation training.

The revised Timekeeping policy and procedure and training have defined billable time, non-billable time, and leave so agency staff have a better understanding of what is included in each category. Cheat sheets, frequently asked questions, and other tools were also provided as the new policy was implemented in February 2020. In addition, essential office time (EOT) was re-branded and simplified in NTMS with just a few categories for non-billable time.

Financial and budget training has also been provided to agency management regarding the agency's revolving fund, fiscal notes, and the budget and accounting cycles. The training stresses the preservation of judicial decision-making independence and the need to separate or screen billing discussions and activities from ALJs and legal professional support staff.

*OAH has improved their tools for budgeting costs and reporting of hours.*

With the improvements made in NTMS, agency management staff now have access to caseload specific reports that help identify workload changes during the course of the year. Reports are also available for non-billable time. These reports can be used to approximate impacts of upcoming changes in the budget.

In addition, OAH has developed a standard cost sheet for use in fiscal notes and decision packages that includes calculations for direct costs such as ALJ and legal professional support staff salaries, benefits, and related costs and indirect costs. Standards have been developed for the number of hours to assume as billable as part of any FTE calculation that takes into account holidays, leave, training, and non-billable time. As a result, OFM and stakeholders have reported increased confidence in the ability of OAH to provide reasonable estimates of caseload changes and the associated costs

*What opportunities remain in 2022?*

Some referring agencies would like OAH to review rates on a more frequent basis rather than just during the biennial budget process. Because the biennial budget process starts a year in advance of the biennium starting, OAH could take the opportunity of the first supplemental budget process to ensure their rates and forecasted caseload estimates reflect their projected costs. This would ensure the referring agencies have adequate funding in their budgets to cover their expected appeal costs. With the pandemic, it has been difficult for OAH and some referring agencies to forecast their caseloads.

With the OAH and OFM decision to move to two rates and the satisfaction expressed by the referring agencies regarding their billing, there is no reason to pursue a longer-term strategy for a retainer or assessment method for the five largest referring agencies or changing the billing methodology for legal professional support staff.

### *Status of 2019 Review Recommendations*

| 2019 Review Recommendations | | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|---|
| 19.1 | In the short term, continue the current method of billing by the hour by docket number for ALJ and legal professional support staff for those agencies and programs that require that level of detail to meet their federal requirements. | 👍 | ✔ | ✔ |
| 19.2 | In the long term, work with OAH staff and referring agencies to analyze the effects of switching from billing hourly to a retainer or assessment method for the five largest referring agencies based on the average billable hours in the last twelve months. | 👍 | ✖ | ✖ |

| 2019 Review Recommendations | | OAH Response | OAH Status | Stellar Assessment |
|---|---|:---:|:---:|:---:|
| 19.3 | In the long term, work with OAH staff and referring agencies to analyze the effects of switching from billing hourly by docket number for legal professional support staff to an assessment method based on intake or open cases. | 👍 | ✖ | ✖ |
| 19.4 | Review the level of detail that is currently required in the NTMS for non-billable time and determine if it is necessary for agency decision making and then explain to agency staff each category and why it is important. This may be an opportunity to rebrand EOT. | 👍 | ✔ | ✔ |
| 19.5 | Update the policy regarding the use of the Time Management System based on the decisions made in Recommendation 19.1, 19.2, and 19.3. Provide quick reference guides and training to staff on some of the tools available to them to quickly track their time. | 👍 | ✔ | ✔ |
| 19.6 | Develop training and communication material for use with agency staff on the billing methodology and how their time reporting is being used. | 👍 | ✔ | ✔ |
| 19.7 | Develop a budget for each category of hours such as billable, EOT, training, and other categories that are determined to be important, so staff understand what the plan is they are managing to. | 👍 | ✔ | ✔ |

| 👍 | 👍 | 👎 | 🕐 | ⌛ | ✖ | ✔ |
|:---:|:---:|:---:|:---:|:---:|:---:|:---:|
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

### New 2022 Recommendations

The following new recommendation is offered to further improve program outcomes and address current issues:

19.8   Consider using the first supplemental budget process each biennium to propose updated rates to OFM based on forecasted caseload estimates and projected costs.

*Conclusion #20: The current billing methodology may not be aligned with the RCW.*

*Synopsis of 2019 conclusion:* The way that OAH is billing seems to be out of step with state statute that allows the agency to bill on a quarterly basis. When the agency did bill using a quarterly assessment methodology that seemed to be more in align with the statute, fiscal staff reported there were issues including:

- The reconciliation between the actual hours and the assessment caused unpredictable swings in the billing as those adjustments were made.

- There was a complicated system of buying and selling FTEs between designated caseloads when the need arose which was difficult to track.

- Some referring agencies complained about the lack of data and/or the timeliness of getting data regarding the hours it took per case during the appeal process to meet federal and other requirements.

Based on these issues, OAH made the decision to switch from a quarterly FTE based billing methodology to actual hours. The RCW may need to be amended to reflect the current billing method or any changes OAH decides to make to the billing methodology in the future.

**What has changed since 2019?**

Currently, OAH spending levels are subject to approval by the Legislature and the Governor. OAH must also obtain OFM approval for its hourly rate. A discussion with OFM to change the statute and to move the OAH funding to a non-appropriated fund was not well-received. These changes were not pursued any further by OAH.

**Impacts of the Pandemic on caseloads and billing in the 2019-21 biennium**

When the pandemic and subsequent unemployment spike began, the Legislature was finishing up its 2020 session. As OAH collaborated with ESD to estimate the increase in expected UI appeals, it became apparent that OAH's appropriation would need to be increased to hire more employees and to hear more UI appeals. Without a special legislative session, the appropriation would not be able to be increased until Spring 2021.

To resolve this issue, OAH and ESD signed an Interagency Agreement (IAA) that allowed OAH to increase its workforce, costs, and consequent billings to ESD by recording the revenue associated with the IAA as a reduction in expenditures. This allowed OAH to hear the appeals without exceeding its 2019-21 revolving fund appropriation. OFM was kept apprised of the IAA process.

ESD estimated about 85,000 cases total for the remainder of the biennium. This resulted in an additional $20 million for FY 2021 needed above the billing estimate in the central service model.

Since most of the cases due to Covid-19 could not be differentiated from other "normal" UI cases, OAH and ESD determined a method to distinguish billing for the IAA from the normal billings associated with the central service model. The original thought was that the additional increase in appeals from Covid-19 would be done by the summer of 2021 and the IAA would be sufficient to cover increased costs. In actuality, the

influx of new appeals did not really start until Fall 2020. OAH billed ESD about $8.3 million through the IAA as of the end of June 2021.

*Effects of the pandemic continue to affect OAH caseloads in the 2021-23 biennium.*

At the time of budget development for 2021-23 biennium, it was assumed that the increase in appeals would end in the summer of 2021 and that the IAA would be sufficient to cover the increase in costs. However, since the influx of new appeals did not start until Fall 2020, the large volume of appeals has continued into 2022 and only declined as of April 2022.

OAH worked with ESD and the AGO, and with the support of OFM, to submit a budget request directly to Legislature in January 2021. The request was for $22.36 million which was funded with a proviso.

In collaboration with ESD, OAH used the same general process for billing to the proviso as the billings associated with the central service model. OAH and ESD have maintained frequent communications regarding the caseload and billings. OAH is providing the Governor's office and OFM with monthly reports on the UI caseload.

There were more cases and a larger backlog than anticipated at ESD. This has resulted in a large backlog at OAH that will likely continue through most or all of FY 2023. Intake of appeals from ESD does appear to be dropping off as of April 2022. Current projections indicate that the backlog may go into the next biennium.

OAH's new billing structure has allowed for fund and cash balance to remain positive and grow. Had the old billing structure remained in place, the fund and cash balance may have gone further negative as revenue was not keeping up with costs.

*What opportunities remain in 2022?*

There may be an opportunity to clean-up the current RCW to reflect the current billing method used by OAH. This should be a minor change that could be added if OAH plans to make any other changes to RCW 34.12 in the future.

The IAA option may be necessary in the future for ESD and other agencies who experience higher caseloads than anticipated in the appropriation provided to OAH in the central service model. The IAA option provides that flexibility to deal with sudden spikes similar to a non-appropriated fund.

*Status of 2019 Review Recommendations*

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 20.1 Work with OFM to change the administrative revolving fund from appropriated to a non-appropriated, but allotted, fund and amend RCW 34.12.140 to reflect their billing methodology. | TBD | ✖ | ✖ |

| 👍 Agree | 👍 Agree as Modified | 👎 Disagree | ⟳ Not yet started | ⧗ In Progress | ✖ Closed - No Further Action | ✔ Completed |
|---|---|---|---|---|---|---|

*New 2022 Recommendations*

The following new recommendation is offered to further improve program outcomes and address current issues:

20.2 Work with OFM to amend RCW 34.12.140 and RCW 34.12.150 to reflect OAH's current billing methodology.

***Conclusion #21: Interagency agreement and invoice requirements vary by referring agency.***

**Synopsis of 2019 conclusion:** Memorandum of Understandings or MOUs with referring agencies vary in their detail and time frames. OAH has negotiated with each agency their individual requirements for data and invoicing. Some agencies may have several different funding sources and programs that require very specific, detailed information to break out their costs properly when they pay the invoice.

As discussed in Conclusion #2, this results in OAH not having a standardized set of reports and invoices. OAH staff manually customize invoices and reports per the specialized requests for each referring agency.

OAH sends out invoices every month to about 30 different agencies. Some agencies receive multiple invoices. Fiscal staff extract hours data from NTMS using the specific requirements for each agency based on the individual agreements.

***What has changed since 2019?***

In the future, OAH will be using Workday as part of the One Washington implementation to replace the statewide Agency Financial Reporting System (AFRS). Invoices will likely be standardized as part of this implementation so there has been no further action on developing a new billing system for OAH. Once the department has a clearer idea of the functionality that will be included in Workday, they can evaluate if a new billing system will be required.

OAH reported that all MOUs between the department and the referring agencies have been standardized to be on a biennial basis. It will be difficult to get uniformity for timelines and reporting needs because of the wide variety of program, funding, and business needs of the referring agencies.

*What opportunities remain in 2022?*

Because each referring agency has specific needs for their individual programs and the corresponding reports, OAH will need to continue to send any relevant time entry supporting data either via email or through a referring agency portal.

Currently, all time entry supporting data is sent to referring agencies via email. In some cases, this supporting data lags slightly behind the receipt of the invoice from OAH. OAH should explore using the referring agency portal for transmittal of the time entry data and offering agencies more options for running their own reports based on their needs.

### Status of 2019 Review Recommendations

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 21.1 Work with OAH management and the advisory committee to standardize billing and other required reports across all referring agencies. Make other data available, including time reporting data, in the portal to allow referring agencies to run their own reports. (See Recommendation #2.3.) | 👍 Agree | 🕐 Not yet started | 🕐 Not yet started |
| 21.2 Standardize interagency agreements between agencies to be on a biennial basis. | 💬 Agree as Modified | ✔ Completed | ✔ Completed |
| 21.3 Develop requirements and standard business rules for the creation of a new billing system, once the billing, interagency agreements, and time reporting processes are standardized. | 💬 Agree as Modified | 🕐 Not yet started | 🕐 Not yet started |

| 👍 Agree | 💬 Agree as Modified | 👎 Disagree | 🕐 Not yet started | ⏳ In Progress | ❌ Closed - No Further Action | ✔ Completed |
|---|---|---|---|---|---|---|

### New 2022 Recommendations

There are no new recommendations offered in this area.

## H. OAH FEE STRUCTURE AND COST ALLOCATION

*Standards and Promising Practices*

The United States Office of Management and Budget (OMB) has established uniform principles for determining the allowability of costs incurred by nonfederal entities expending federal awards. Many state agencies perform functions and activities that are associated with federal assistance programs or provide central service support to federal assistance programs. OAH is part of the central service support model that provides appeal services to several state agencies who have federal funds including DSHS, HCA, DCYF, and ESD.

*OAH is required to adhere to the requirements of the OMB Uniform Guidance when billing central services.*

Washington's State Administrative and Accounting Manual (SAAM) requires central services agencies such as OAH to understand and adhere to the requirements of the OMB Uniform Guidance. As such, all federal allowable costs must be billed to benefitting agencies and/or programs on a fee for service or similar basis.

Cost allocation is another key element of the OMB Uniform Guidance. If all an agency's expenditures benefit one program, then one program would be charged directly. But when you add another program and/or funding source, you must determine which costs are direct, which costs are shared as indirect or overhead, and how you plan to allocate those costs to each of these programs and/or funding sources for the expenses that occur. For OAH, the following costs are reviewed to calculate the rate structure for each biennial budget cycle.

- direct costs those that are directly attributable to a caseload, such as a judge's time spent working on a case, legal professional support staff, translation services, interpreters; and

- overhead and indirect costs, those agency-wide costs that multiple agencies share the costs of, such as building rent and information technology services.

*OAH's revolving fund is set up as an internal service fund.*

The OMB Uniform Guidance also recognizes that internal service funds are dependent upon a reasonable level of working capital reserve to operate from one billing cycle to the next. Internal service funds are allowed to establish and maintain a reasonable level of working capital reserve, in addition to the full recovery of costs. A working capital reserve, of around 60 to 90 calendar days cash expenses for normal operating purposes, is considered reasonable.

**Conclusion #22: The current rate structure does not allow for adequate working capital reserves.**

**Synopsis of 2019 conclusion:** OAH operates under a revolving fund established under RCW 34.12.130 when the agency was created. This revolving fund is set up as an internal service fund. As previously discussed, OAH had been operating with a negative or near zero cash balance since FY 2014 when they changed from billing in advance to a billing method based on actual hours at the end of the month. Because of the small cash reserves, fiscal staff had to continually check cash balances to ensure they did not fall below a certain level.

Establishing a 60-day working capital reserve helps cover agency expenditures during temporary downturns in the caseload and dropping revenues. In addition, fiscal staff are able to focus on higher value activities instead of dealing with the stress of ensuring there are adequate cash and fund balances to keep the agency operations running smoothly.

**What has changed since 2019?**

With the new rate structure and the increasing caseloads and revenue due to the effects of the pandemic, OAH has been able to build a sustainable working capital balance beginning in the 2021-23 biennium. As of the end of FY 2021, OAH had both a positive cash and fund balance for only the second time in twelve years. At that point, the working capital was equal to about one month of expenditures.

So far in FY 2022, the positive cash and fund balances have continued to grow along with the appeal caseloads. As of the end of April 2022, OAH had attained a 3 to 4 month working capital balance.

**What opportunities remain in 2022?**

With the effects of the pandemic easing and the unemployment rate low, OAH expects the ESD caseload to decline after the backlog has been worked through. At that point, revenues will decline dramatically. OAH should work with OFM and other stakeholders to protect as much of the working capital balance as possible to allow time for the agency to downsize their staffing to align with the expected caseloads and to maintain a sustainable cash and fund balance.

*Status of 2019 Review Recommendations*

| 2019 Review Recommendations | | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|---|
| 22.1 | OAH should set rates high enough to generate sufficient revenues to build up a 60-day working capital reserve to cover its expenditures from one billing period to the next. | 👍 | ✔ | ✔ |

| 👍 | 👍 | 👎 | ↻ | ⏳ | ✖ | ✔ |
|---|---|---|---|---|---|---|
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

*New 2022 Recommendations*

The following new recommendation is offered to further improve program outcomes and address current issues:

22.2    Work with OFM to maintain a sustainable working capital balance in the 2023-25 biennial budget cycle.

| | |
|---|---|
| ***Conclusion #23: The current rate structure is difficult for staff and stakeholders to understand.*** | **Synopsis of 2019 conclusion:** The rate structure that was in place for the 2019 review assumed three cost pools. Two of the cost pools tracked ALJ and the legal professional support staff direct billable hours. The third cost pool tracked overhead and other administrative costs. There was confusion amongst staff and stakeholders on what the third cost pool was and what costs were included. There was also a perception that the agency was top heavy and that the overhead costs exceeded other agencies. |
| | The Finance and Facilities Unit had three positions at that time providing financial services to the agency along with facility management tasks. The workload for this small unit was high and there was little capacity to do anything beyond the core duties of the unit. In addition, the billing methodology was difficult for referring agencies to understand. The fiscal unit dealt with numerous calls from agencies who had questions on their bill and had concerns on the accuracy. |
| ***What has changed since 2019?*** | As discussed earlier, OAH modified its billing methodology in January 2021 to two rates, one hourly rate for the ALJs and a separate hourly rate for the legal professional support staff. These rates are fully loaded to include all direct, indirect, and overhead costs of the department. As OAH considered options for changing its rate structure, various stakeholders were contacted to get their input. Those who did respond preferred the new two hourly rate option, although there was concern that the rates would be too high. |
| | Since the billing methodology and rate change, referring agencies are reporting very few issues with the OAH invoices. They are able to get the supporting documentation they need to understand what they are paying for with each docket. |

All direct costs for ALJs and legal professional support staff are being tracked by caseload and docket, where possible, instead of location. Data can be pulled from HRMS to determine what is the primary caseload for each FTE and NTMS data can be pulled to show how many hours each ALJ or legal professional support FTE worked for each agency and program. Between the two data sources, there appears to be sufficient information for both agency management and the referring agencies.

OAH meets with the referring agencies with the highest appeal caseloads every 3 to 6 months to review any caseload changes and upcoming OAH and referring agency program changes that could affect appeal caseloads or billings. The agencies report they appreciate the great partnership with OAH and its responsiveness whenever a question does come up.

*OAH has added increase fiscal capacity.*

The OAH Finance and Facilities Unit recently added a budget analyst position to manage the agency's fiscal note process and serve as the agency expert on the budget, allotment, and performance measure systems. In addition, this position has added capacity to the small finance team for monitoring budget variances and to assist in the development and modeling of rates, revenues, caseload levels, and expenditure projections. This added capacity will allow the other staff in the Finance and Facilities Unit to attend to other critical tasks.

*What opportunities remain in 2022?*

OAH should continue to review and analyze the root cause of defaults or "no shows" and work with the referring agencies to understand the reasons why these occur. As a result, strategies may be identified that could lead to more efficient use of ALJ and staff time. There also could be additional rate options such as billing a one-hour no-show fee for late cancellations of hearings to drive desired behavior.

Interpreter costs are another area the OAH continues to evaluate for efficiencies. One of the referring agencies would like to get a better understanding of the interpreter costs and the opportunities to free up docket space to handle additional cases.

*Status of 2019 Review Recommendations*

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 23.1 OAH should examine the appropriate allocation of direct, overhead, and indirect costs to its rates and simplify the rate structure as much as possible. Overhead and indirect costs should be integrated into the fully loaded costs of the ALJ and legal professional support staff. All direct costs should be charged to the appropriate referring agency. | 👍 | ✓ | ✓ |

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 23.2 Review and update the agency chart of accounts to capture the costs based on business needs. This may include tracking costs not only by location, but by the categories assumed in the rate structure such as costs associated with ALJs, legal professional support staff, all other direct costs, overhead, and indirect. | 👍 | ✔ | ✔ |
| 23.3 OAH should ensure their rates cover costs associated with all direct costs plus overhead and indirect costs and develop management reports to routinely validate those assumptions. | 👍 | ✔ | ✔ |
| 23.4 OAH should identify all overhead, indirect, and direct costs including allowances for training, leave, and other non-docket specific costs for inclusion in their rate calculation. | 👍 | ✔ | ✔ |
| 23.5 OAH should use the advisory committee to evaluate possible cost efficiencies and additional rate options such as billing a one-hour no-show fee for late cancellations of hearings to drive desired behavior and a reduction of non-billable hours. | 👍 | ✖ | ✖ |
| 23.6 Once the rates are set, OAH should develop rate-setting policies and procedures that include periodic review of rates with OFM and acknowledge the need for transparency into the rate setting calculations. | 👍 | ✔ | ✔ |
| 23.7 Communication and education material should be developed to explain what goes into the rate for staff and external stakeholders. This information should be made available for rate date and for posting on the agency website. | 👍 | ✔ | ✔ |
| 23.8 Add a resource to the OAH fiscal unit to assist in the above recommendations and do the financial and facility analysis that may be necessary to develop options for agency efficiencies. (See Recommendation #12.1.1. and #15.1.4.) | 👍 | ✔ | ✔ |

| 👍 | 👍 | 👎 | ⟳ | ⌛ | ✖ | ✔ |
|---|---|---|---|---|---|---|
| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |

*New 2022 Recommendations*

The following new recommendation is offered to further improve program outcomes and address current issues:

23.9   In place of 23.5, OAH should review and evaluate strategies to increase efficiency in scheduling and using interpreters.

23.10  In place of 23.5, OAH should review and understand the reasons behind defaults that may lead to more efficient use of ALJ and staff time.

# I. APPENDIX 1 – Conclusions and Recommendations Summary

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 1.1 Improve notice of hearing and written orders for appellant use by ensuring they are written in plain language and available in a variety of formats. | 👍 | ⏳ | ⏳ |
| 1.2 Complete the business and technical requirements for an appellant portal to allow the appellant easy access to the status of appeals, hearing notifications, and other relevant case information. | 👍 | ✓ | ✓ |
| 1.3 *Implement responsive web design to allow appellants to access the portal from a mobile device. This will increase the accessibility of the appellant portal to appellants who only have internet access through a mobile device.* | **New** | | |
| 2.1 Work with the advisory committee to develop uniform timeframes for case management when they are not mandated by state or federal statute. This may require rule changes but will assist OAH and agencies to more efficiently manage caseloads, and citizens to better understand and navigate the process. (See Recommendation #18.1.) | 👍 | ⏳ | ⏳ |
| 2.2 Identify and complete the remaining activities and resources necessary to achieve OAH's electronic case records (ECR) project. | 👍 | ✓ | ✓ |
| 2.3 Work with referring agencies to leverage efficiencies in currently available options for accessing data through Border Services and/or the Referring Agency Portal, allowing agencies self-service access to the status of appeals, hearing notifications, and other relevant case information. | 👍 | ✓ | ✓ |
| 2.4 Work with stakeholders to continue the efforts for e-filing of appeals. | 👍 | ⏳ | ⏳ |
| 3.1 Standardize training materials and create a training program to ensure staff understand what is expected of them for consistent use of technologies and processes, such as WebEx for hearings or Outlook for scheduling. Requiring use of tools that are already in place will quickly improve efficiencies within the organization. (See Conclusion #16.) | 👍 | ⏳ | ✓ |
| 3.2 Establish a position, similar to a Court Administrator, whose primary focus is to work with the Division Chief ALJs and Legal Administrative Managers to standardize processes, procedures, templates, and forms. (See Recommendation #15.1.) | 👍 | ✓ | ✓ |
| 3.3 ~~Standardize organizational policies and processes and~~ Use a collaboration tool (similar to SharePoint) when teams are collaborating on initiatives and developing operational documents. [Amended to clarify recommendation in 2022] | 👍 | ⏳ | 🕐 |

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 3.4 Provide electronic access to all case-related information and standardize the use of existing tools and systems (such as PRISM and NTMS). | 👍 | ✓ | ✓ |
| 5.1 Ensure adequate subject matter expertise is leveraged prior to decision making and that the rationale behind decisions is documented and communicated. (See Recommendation #9.1.) | 👍 | ✓ | ⧗ |
| 6.1 Reconfirm or establish and communicate performance measures and catch up on performance reviews. | 👍 | ✓ | ✓ |
| 6.2 Establish, monitor, and report on performance measures at the strategic, tactical, and operational level to increase performance and accountability. | 👍 | ⧗ | ⧗ |
| 7.1 Define roles and responsibilities, including authority in decision making. (See Recommendations #12.3 and #13.1.) | 👍 | ⧗ | ⧗ |
| 7.2 Expand existing dashboards to report on performance measures that are meaningful and accessible for staff at the strategic, tactical, and operational levels of the organization. (See Recommendation #6.2.) | 👍 | ↺ | ⧗ |
| 8.1 Review options with OFM to benchmark ALJ salary to the salaries of judges at BIIA. This may require shifting the ALJs from exempt status to classified so salaries can be linked during salary surveys. | 👍 | ✕ | ✓ |
| 9.1 Create a governance structure with subject matter experts to prioritize initiatives, review and raise issues, and make decisions. | 👍 | ↺ | ✓ |
| 9.2 Ensure there is adequate capacity and expertise to effectively execute program, administrative, and regulatory activities. | 👍 | ⧗ | ⧗ |
| 9.3 Establish a Business Transformation PMO with project, organizational change management, and Lean expertise to implement the recommendations of prior reviews, this review, and the agency's priorities. (See Recommendations #10.3, 12.1.1, and #15.1.) | 👍 | ✓ | ⧗ |
| 9.4 Develop a Communications Plan and a Stakeholder Management Plan. | 👍 | ✓ | ✓ |
| 9.5 Develop a tactical roadmap as a companion to the Strategic Plan. | 👍 | ✓ | ✓ |

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 9.6 *Adding organizational change management expertise to the team would help close the awareness, desire, knowledge, ability, and reinforcement gaps that are difficult to close without help.* | **New** (spanning) | | |
| 10.1 Leverage a governance committee to prioritize the tools, technology, and/or resource changes in support of OAH staff. (See Recommendation #9.1.) | 👍 (outline) | (clock) | ✓ |
| 10.2 Create a data dictionary in plain language to define and communicate the expected data for each of the fields within PRISM so that end users know the appropriate data for entry. | 👍 (outline) | (hourglass) | (hourglass) |
| 10.3 Leverage training and organizational change management to improve the use of technology and support quality and consistency, allowing leaders and stakeholders to more easily analyze issues, identify trends, and develop data-driven options for decision making. (See Recommendations #9.3, 12.1.1., and 15.1.) | 👍 (outline) | (hourglass) | (hourglass) |
| 11.3 OAH should partially automate the case assignment and scheduling tasks within PRISM. | 👍 (filled) | (clock) | (clock) |
| 11.4 Continue to transition information and processes to electronic records management and achieving the goal of becoming paperless will help further OAH's flexibility. | 👍 (filled) | (hourglass) | ✓ |
| 12.1 Update the organizational structure to position the agency for success and infuse management expertise with well-defined roles and responsibilities and proven skills and abilities. An option of an updated organizational structure and RACI matrices for the agency is in Appendix 4. Other factors should be considered as OAH adopts a new organizational structure: | 👍 (outline) | ✓ | ✓ |
| 12.1.5 Increase staff capacity for project management, Lean, organizational change management, communications, fiscal and facility analysis, and business analysis. (See Conclusion #15 for additional information.) | 👍 (outline) | (hourglass) | (hourglass) |
| 12.1.6 Retain the caseload lead designation with each Division Chief ALJ. This will require a matrix relationship across the agency with the senior ALJs, Lead ALJ's, and Line ALJs. | 👍 (filled) | ✓ | ✓ |
| 12.1.7 Retain the direct reporting relationship of the legal professional support staff to the local Division Chief ALJ. | 👎 (filled) | ✓ | ✕ |
| 12.1.8 Establish a matrix relationship between the Legal Administrative Manager in each office with the Deputy Chief ALJ for Judicial Support | 👍 (filled) | ✓ | ✓ |
| 12.4 OAH should establish a clear, bright line within the organization structure between the billing, funding, judicial support part of the agency and the ALJs to ensure decisional independence. | 👍 (outline) | ✓ | ✓ |

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 12.5   OAH should adopt a RACI matrix for management positions to clearly identify decision-making authority for the hierarchical structure, the local office structure, and the caseload structure. | 👍 | ⏳ | ⏳ |
| 12.5   OAH should develop a communication plan to advise staff of the new organizational structure, to share the RACI matrices, to explain where they will fit into the structure, and to identify who they will report to in the new structure. | 👍 | ⏳ | ⏳ |
| 13.1   Using the RACI matrix, update position descriptions to include all roles and responsibilities within the organization. | 👍 | ✔️ | ✔️ |
| 14.1   With the assistance of Human Resources (HR), refine the current hiring process and document and distribute the process to managers and supervisors. | 👍 | ⏳ | ⏳ |
| 14.2   Develop a RACI for the updated hiring process to define the authority for each level of management within the agency. | 👍 | ⏳ | 🔄 |
| *14.3   Evaluate staffing across caseloads so staff supporting each caseload have similar opportunities to participate in initiatives and improve their processes.* | **New** | | |
| 15.1.   Increase resource capacity and expertise to adequately and effectively manage agency administrative and judicial support activities to: | 👍 | ⏳ | ⏳ |
| 15.1.1.   Lead the consistent use of policies, procedures, templates, and other tools across specified caseloads. | 👍 | ⏳ | ⏳ |
| 15.1.2.   Lead projects to support current business needs and improve the quality and consistency of the appeal process. | 👍 | ⏳ | ⏳ |
| 15.1.3.   Lead the development and implementation of model rulemaking strategy in close coordination with the internal agency and external stakeholders. | 👍 | ⏳ | ⏳ |
| 15.1.4.   Provide analytical expertise within the agency to analyze issues, identify trends, and develop data driven options for decision makers to consider. | 👍 | ⏳ | ⏳ |
| 15.1.5.   Lead the implementation of updated policies, the implementation of the communications and stakeholder plans, and the implementation of the performance management plan. | 👍 | ⏳ | ⏳ |
| 15.1.6.   Lead the development of a staff training program to build commonly needed skills in judicial or adjudication operations, interpersonal communication, leadership development, managing change, building teams, and meeting facilitation. | 👍 | ⏳ | ⏳ |

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 16.1 Establish a dedicated budget for training and development. | 👍 | ⏳ | ⏳ |
| 16.2 Work with the Business Transformation PMO for staff support creating a training plan for internal staff by role, caseload, and process. (See Recommendation #15.1.6.) | 👍 | ⏳ | ⏳ |
| 16.3 Utilize modern training platforms. | 👍 | ⏳ | ✔️ |
| 16.4 Create and conduct training for external stakeholders. | 👍 | ⏳ | ⏳ |
| 17.1 Develop a stakeholder management plan and a communication plan and review its progress on implementation of the plans on a quarterly basis. | 👍 | ✔️ | ✔️ |
| 17.2 Establish a primary point of contact for stakeholder management for each caseload with clear roles, responsibilities, and decision-making authority. | 👍 | ✔️ | ✔️ |
| 17.3 Establish a standard agenda for quarterly meetings with key stakeholders to include program or policy changes, lessons learned, trends, and forecasts of future caseloads. | 👍 | ✔️ | ✔️ |
| 17.4 Adopt common meeting management practices for the meetings, including developing and issuing agendas in advance, and documenting outcomes for each agenda item with action steps, assignments, and due dates. | 👍 | ✔️ | ✔️ |
| 18.1 Create an agency advisory committee to work directly with stakeholders to review model rules, policies, technology improvements, and initiatives, such as plain talk and paperless, to understand their potential impact on other organizations. | 👍 | ✔️ | ✔️ |
| 18.2 Develop and post a charter for the advisory committee that contains, at a minimum, its purpose, members, responsibilities, and meeting expectations. | 👍 | ✔️ | ✔️ |
| 19.1 In the short term, continue the current method of billing by the hour by docket number for ALJ and legal professional support staff for those agencies and programs that require that level of detail to meet their federal requirements. | 👍 | ✔️ | ✔️ |
| 19.2 In the long term, work with OAH staff and referring agencies to analyze the effects of switching from billing hourly to a retainer or assessment method for the five largest referring agencies based on the average billable hours in the last twelve months. | 👍 | ✖️ | ✖️ |
| 19.3 In the long term, work with OAH staff and referring agencies to analyze the effects of switching from billing hourly by docket | 👍 | ✖️ | ✖️ |

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| number for legal professional support staff to an assessment method based on intake or open cases. | | | |
| 19.4 Review the level of detail that is currently required in the NTMS for non-billable time and determine if it is necessary for agency decision making and then explain to agency staff each category and why it is important. This may be an opportunity to rebrand EOT. | 👍 | ✔ | ✔ |
| 19.5 Update the policy regarding the use of the Time Management System based on the decisions made in Recommendation 19.1, 19.2, and 19.3. Provide quick reference guides and training to staff on some of the tools available to them to quickly track their time. | 👍 | ✔ | ✔ |
| 19.6 Develop training and communication material for use with agency staff on the billing methodology and how their time reporting is being used. | 👍 | ✔ | ✔ |
| 19.7 Develop a budget for each category of hours such as billable, EOT, training, and other categories that are determined to be important, so staff understand what the plan is they are managing to. | 👍 | ✔ | ✔ |
| *19.8 Consider using the first supplemental budget process each biennium to propose updated rates to OFM based on forecasted caseload estimates and projected costs.* | **New** | | |
| 20.1 Work with OFM to change the administrative revolving fund from appropriated to a non-appropriated, but allotted, fund and amend RCW 34.12.140 to reflect their billing methodology. | TBD | ✖ | ✖ |
| *20.2 Work with OFM to amend RCW 34.12.140 and RCW 34.12.150 to reflect OAH's current billing methodology.* | **New** | | |
| 21.1 Work with OAH management and the advisory committee to standardize billing and other required reports across all referring agencies. Make other data available, including time reporting data, in the portal to allow referring agencies to run their own reports. (See Recommendation #2.3.) | 👍 | 🕐 | 🕐 |
| 21.2 Standardize interagency agreements between agencies to be on a biennial basis. | 👍 | ✔ | ✔ |
| 21.3 Develop requirements and standard business rules for the creation of a new billing system, once the billing, interagency agreements, and time reporting processes are standardized. | 👍 | 🕐 | 🕐 |
| 22.1 OAH should set rates high enough to generate sufficient revenues to build up a 60-day working capital reserve to cover its expenditures from one billing period to the next. | 👍 | ✔ | ✔ |
| *22.2 Work with OFM to maintain a sustainable working capital balance in the 2023-25 biennial budget cycle.* | **New** | | |

| 2019 Review Recommendations | OAH Response | OAH Status | Stellar Assessment |
|---|---|---|---|
| 23.1 OAH should examine the appropriate allocation of direct, overhead, and indirect costs to its rates and simplify the rate structure as much as possible. Overhead and indirect costs should be integrated into the fully loaded costs of the ALJ and legal professional support staff. All direct costs should be charged to the appropriate referring agency. | 👍 | ✓ | ✓ |
| 23.2 Review and update the agency chart of accounts to capture the costs based on business needs. This may include tracking costs not only by location, but by the categories assumed in the rate structure such as costs associated with ALJs, legal professional support staff, all other direct costs, overhead, and indirect. | 👍 | ✓ | ✓ |
| 23.3 OAH should ensure their rates cover costs associated with all direct costs plus overhead and indirect costs and develop management reports to routinely validate those assumptions. | 👍 | ✓ | ✓ |
| 23.4 OAH should identify all overhead, indirect, and direct costs including allowances for training, leave, and other non-docket specific costs for inclusion in their rate calculation. | 👍 | ✓ | ✓ |
| 23.5 OAH should use the advisory committee to evaluate possible cost efficiencies and additional rate options such as billing a one-hour no-show fee for late cancellations of hearings to drive desired behavior and a reduction of non-billable hours. | 👍 | ✖ | ✖ |
| 23.6 Once the rates are set, OAH should develop rate-setting policies and procedures that include periodic review of rates with OFM and acknowledge the need for transparency into the rate setting calculations. | 👍 | ✓ | ✓ |
| 23.7 Communication and education material should be developed to explain what goes into the rate for staff and external stakeholders. This information should be made available for rate date and for posting on the agency website. | 👍 | ✓ | ✓ |
| 23.8 Add a resource to the OAH fiscal office to assist in the above recommendations and do the financial and facility analysis that may be necessary to develop options for agency efficiencies. (See Recommendation #12.1.1. and #15.1.4.) | 👍 | ✓ | ✓ |
| 23.9 *In place of 23.5, OAH should review and evaluate strategies to increase efficiency in scheduling and using interpreters.* | **New** | | |
| 23.10 *In place of 23.5, OAH should review and understand the reasons behind defaults that may lead to more efficient use of ALJ and staff time.* | **New** | | |

| Agree | Agree as Modified | Disagree | Not yet started | In Progress | Closed - No Further Action | Completed |
|---|---|---|---|---|---|---|
| 👍 | 👍 | 👎 | ⟳ | ⧖ | ✖ | ✓ |

# J. APPENDIX 2 – Review Methodology

The 2019 Fee Structure, Billing, Productivity, and Organizational Review as well as this 2022 Follow-up Study were independent reviews aimed to provide objective analysis and assist management and those charged with governance and oversight to recognize opportunities and where possible improve program performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability. The reviews included an assessment of program effectiveness, risks, and efficiency; internal controls; compliance; and gaps. While developing recommendations the reviewers kept the following outcomes-based questions in mind:

- What will the impact of the assessment or review be?
- What efficiencies could be realized from the assessment or review?
- What is the value added by the assessment or review?

Review Criteria

For the 2019 review, the review **criteria** focused broadly on identifying the purpose of the organization ("what should be") and compared those expectations to the current conditions ("what is") to identify gaps. For the Follow-up Study the recommendations from the 2019 review were leveraged as specific criteria to compare to the current state, while paying attention to any new gaps. In both reviews the cause, impact, and materiality of gaps ("the so what") was considered when preparing any new actionable recommendations.
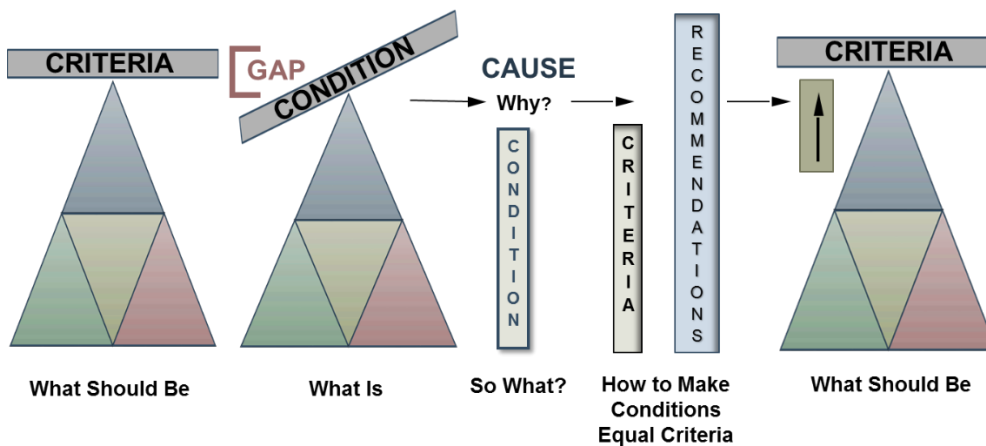


Illustration 1

Evidence

Both tangible and intangible evidence were gathered and analyzed for the Follow-up Study. The approach taken was to collect and examine as much physical evidence as possible, analyze data, review processes, and listen to messages from participants and stakeholders to ensure the conclusions and recommendations were credible and achievable. While intangible evidence is important in evaluating satisfaction and acceptance, it was balanced this with as much tangible evidence as possible to ensure the findings and conclusions are supportable.

<table>
<tr><td></td><td align="center"><b>Tangible</b><br>(physical)</td><td align="center"><b>Intangible</b><br>(non-physical)</td></tr>
</table>

|  | **Tangible**<br>(physical) | **Intangible**<br>(non-physical) |
|---|---|---|
| **Processes**<br>(How)<br>(When)<br>(Who)<br>(How much) | Organizational Charts<br>Policies and Procedures<br>Process Flows<br>Workload and Cost Data<br>Benchmark Data | Testimonials<br>Anecdotes<br>Observations |
| **Outcomes**<br>(What) | Performance Data<br>Customer Service Level Reports<br>Costs per Outcome<br>Comparative Reports<br>Workload Reports | Stakeholder Perceptions<br>Customer Satisfaction<br>Acceptance |

**Evidence Assessed**

Illustration 2
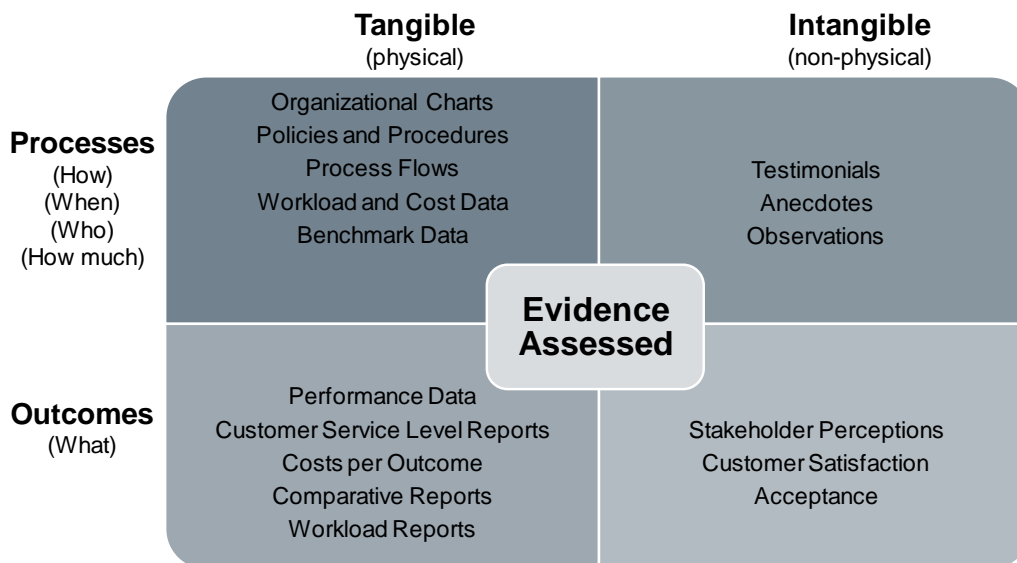
The types of evidence used during this review were explainable and justifiable in terms of sufficiency, validity, reliability, relevance, and reasonableness. All findings and conclusions are supported by the evidence. The sources of evidence included review of:

- financial reports, budgets, workload data, and spreadsheets;
- project schedules and tracking sheets;
- meeting notes, communications, management reports, and strategic plans;
- job descriptions, performance development plans, and organizational charts;
- agency-written policies, procedures, and process charts;

The follow-up study drew upon a variety of data-gathering and analysis techniques, such as interviews, observations, workflow mapping, document and spreadsheet analysis, as well as the analysis of financial and performance data. The methods allowed for gathering data in an efficient and effective manner and was flexible in the choice of methods to not cause undue hardship on OAH resources or services.

<div align="center">Interviews</div>

For the 2019 review, OAH had a hybrid location-based and caseload-based organizational structure. The organization has progressed to a location-agnostic structure; however, the follow-up study was inclusive of all offices. A small number of observations were noted as unique to a location, but other factors might be identified with deeper root cause analysis. Interviewee categories included:

- referring agencies: Department of Social and Health Services, Department of Children, Youth, and Families, Employment Security Department, Health Care Authority, and Office of Superintendent of Public Instruction;
- OFM staff;
- appellant representatives;
- legal administrative managers;
- senior ALJs, division chief ALJs, and assistant chief ALJs; and
- headquarters staff and agency leadership.