

# YEAR-END REPORT

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## OFFICE OF ADMINISTRATIVE HEARINGS STATE OF IDAHO

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2023

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## Introduction

This year-end report, outlining the first year of operations for the State of Idaho Office of Administrative Hearings (OAH), serves as a summary of key data points gathered during those first twelve months.

This report aims to encapsulate the essence of OAH's endeavors, as reflected in information regarding caseloads (including the scope and diversity of cases handled), procedural innovations, and collaborative efforts that have defined our first year of operations.

This year-end report is also intended to sum up not only OAH's quantitative accomplishments, but also the qualitative strides made by OAH in fostering an environment of transparency, accountability, and continuous improvement in conducted contested case proceedings.

In the ever-evolving landscape of administrative law, OAH has remained steadfast in its mission: serve the citizens, businesses, and state agencies of Idaho by providing independent, efficient, and unbiased hearings of contested administrative cases, and facilitate the opportunity for parties to resolve their disputes through alternative dispute resolution.

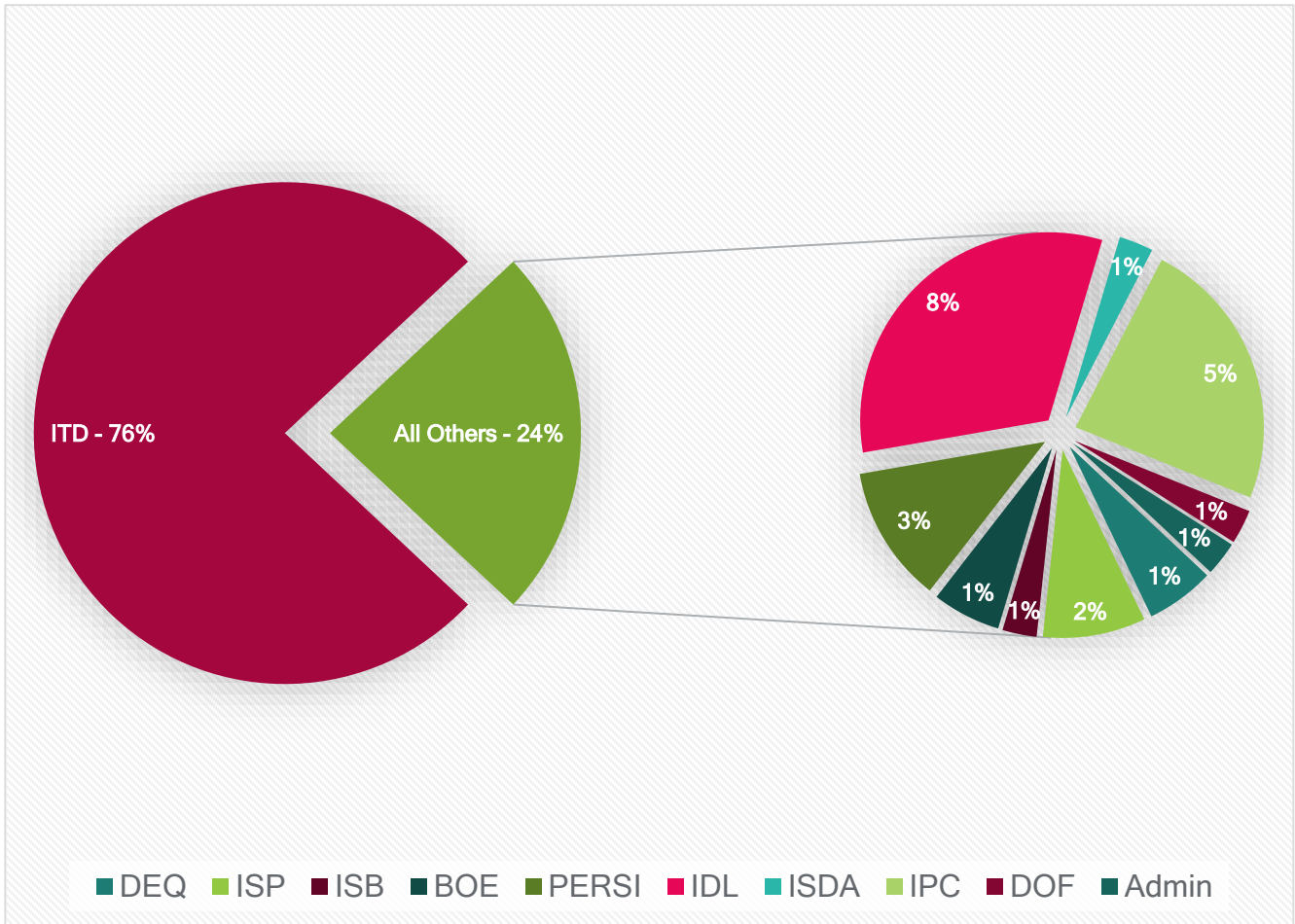
## Agency Case Mix

In 2023, OAH received 142 case assignments from 13 different Idaho state agencies. The majority of case assignments were from the Idaho Department of Transportation, which ran the gamut from commercial driver's license (CDL) disqualification proceedings to right-of-way encroachment disputes.

Agency/Cases		Total %age of cases
Idaho Transportation Department	108	76.1%
Idaho Department of Lands	11	7.7%
Idaho Personnel Commission	8	5.6%
PERSI	4	2.8%
Idaho State Police	3	2.1%
Idaho Department of Environmental Quality	2	1.4%
Idaho State Board of Education	2	1.4%
Idaho State Bar	1	0.7%
Idaho Department of Administration	1	0.7%
Idaho State Department of Agriculture	1	0.7%
Idaho Department of Finance	1	0.7%
Idaho State Tax Commission*	0	0.0%
Oil & Gas Commission*	0	0.0%
<b>Total Cases</b>	<b>142</b>	

Note - The two administrative bodies denoted with an asterisk - the Idaho State Tax Commission and the Oil and Gas Commission - have advised of their intent to send future matters to OAH. OAH has conferred with both agencies to coordinate future assignments, and OAH is ready to proceed with those assignments.

### Agency Case Mix - Graph





## Mandatory and Permissive Matters

Pursuant to Idaho Code §67-5280(2)(a), OAH has two major functions:

- “Conduct all contested case proceedings that arise from an appeal of an agency order” - these are the **mandatory** case proceedings, where an agency **must** use OAH for hearing officer services, and where OAH must accept the case assignment. These are matters which arise within, and are subject to, the Administrative Procedure Act (“APA”).
- “Conduct such adjudicatory hearings, mediations, and arbitrations not required by this chapter that are requested by agencies and agreed to by the office of administrative hearings at such monetary rates as established by the office of administrative hearings” - these are the **permissive** case proceedings, where an agency **may** use OAH (but is not required to), and where OAH **may** accept the assignment. These are matters which can arise under the APA, but may also arise under other statutory provisions or in other existing cases (such as where an agency may request a mediator).

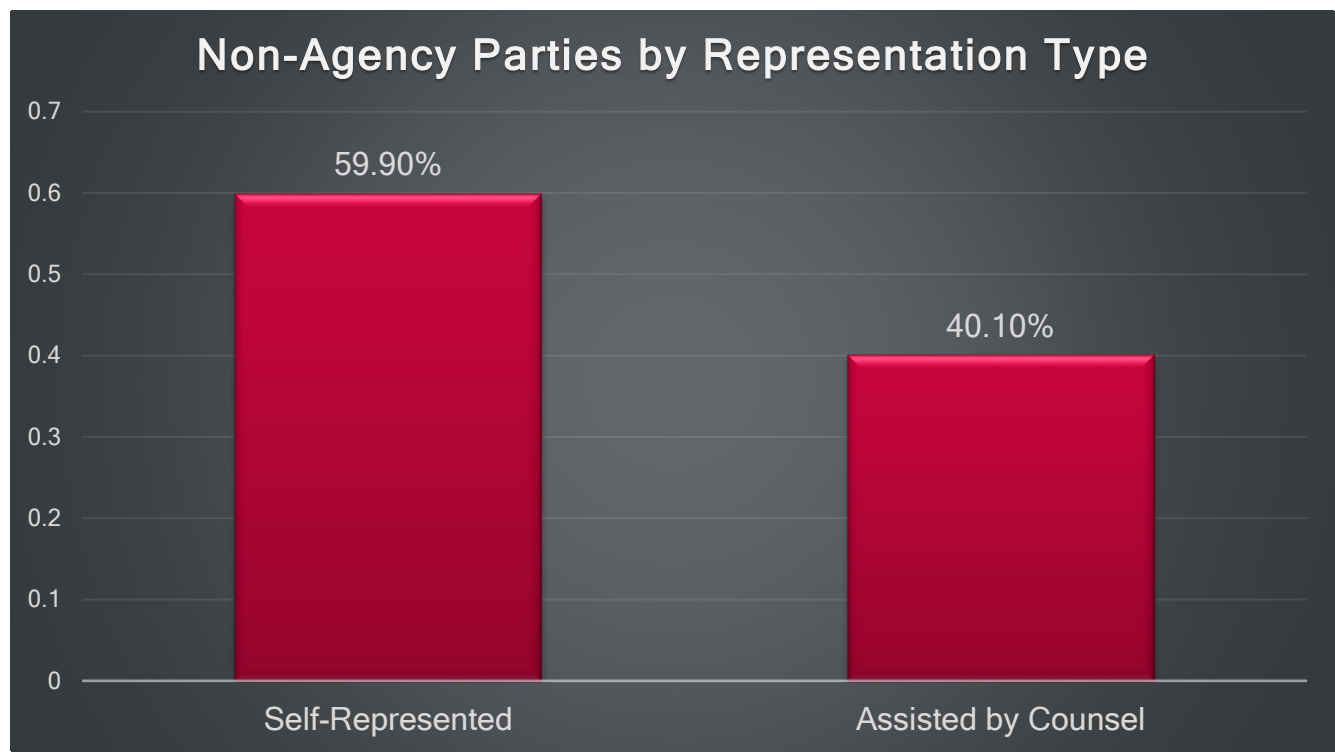
In 2023, **11.3%** of OAH’s accepted case assignments were permissive in nature. Although OAH may refuse such assignments (based upon conflicts, caseload, etc.), OAH did not refuse any such assignments in 2023.

OAH enters into agreements with agencies to provide permissive services. Permissive adjudications (like Idaho Personnel Commission proceedings) are currently free (**\$0/hr.**) if staffed by an in-house OAH hearing officer; if a contract hearing officer is used, the agency reimburses OAH at a reduced rate of **\$75/hr.** (thereby sharing the \$185/hr. rate that OAH pays contract hearing officers).

Finally, OAH’s “permissive” function includes the broad ability to provide mediators and arbitrators, if an agency requests, in any scenario where an agency might require one. OAH successfully conducted **1** mediation in 2023. Mediations and arbitrations are free (**\$0/hr.**) irrespective of what hearing officer is assigned. Agencies are permitted to select a specific mediator, and OAH currently maintains a roster of seven (7) mediators to choose from.

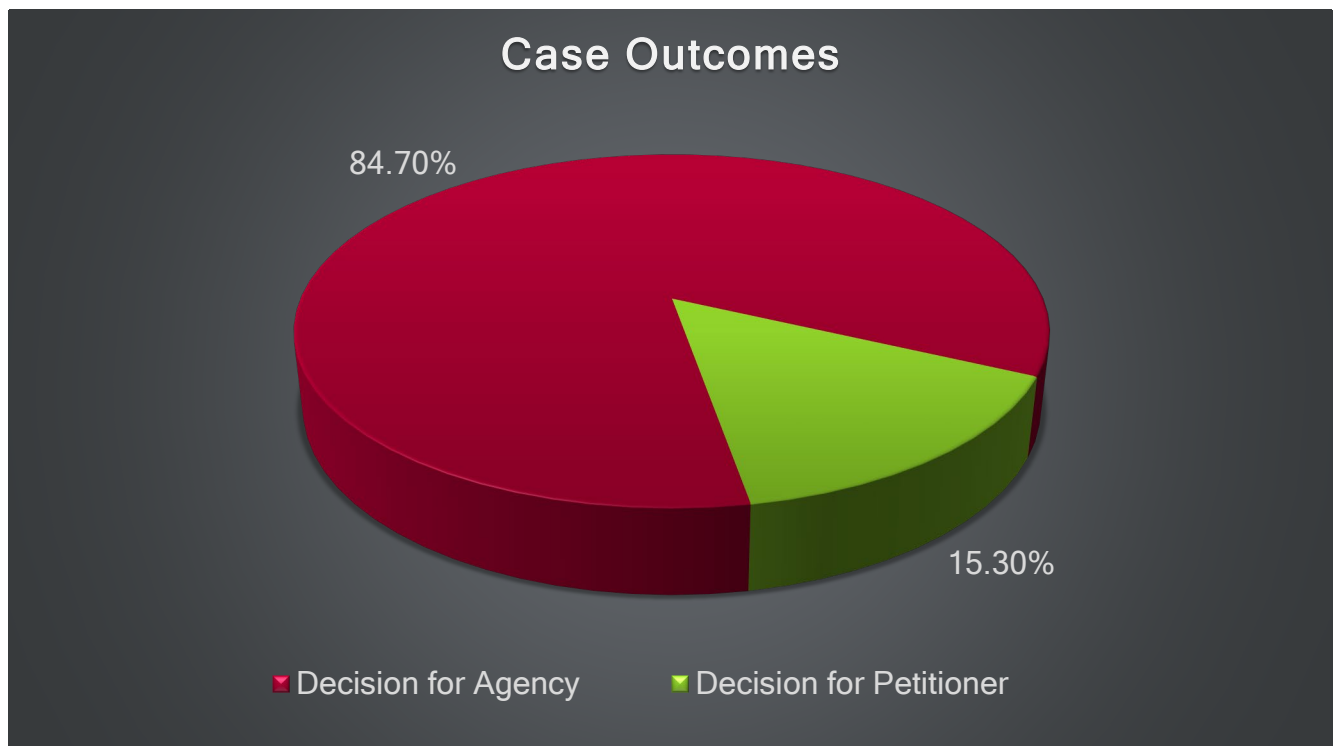
## Non-Agency Party Profile

Non-agency parties (that is, citizens and businesses) that appear in contested cases before OAH hearing officers are generally entitled to be represented by counsel. However, for 2023, the majority of those parties were self-represented:



## Case Outcomes - All

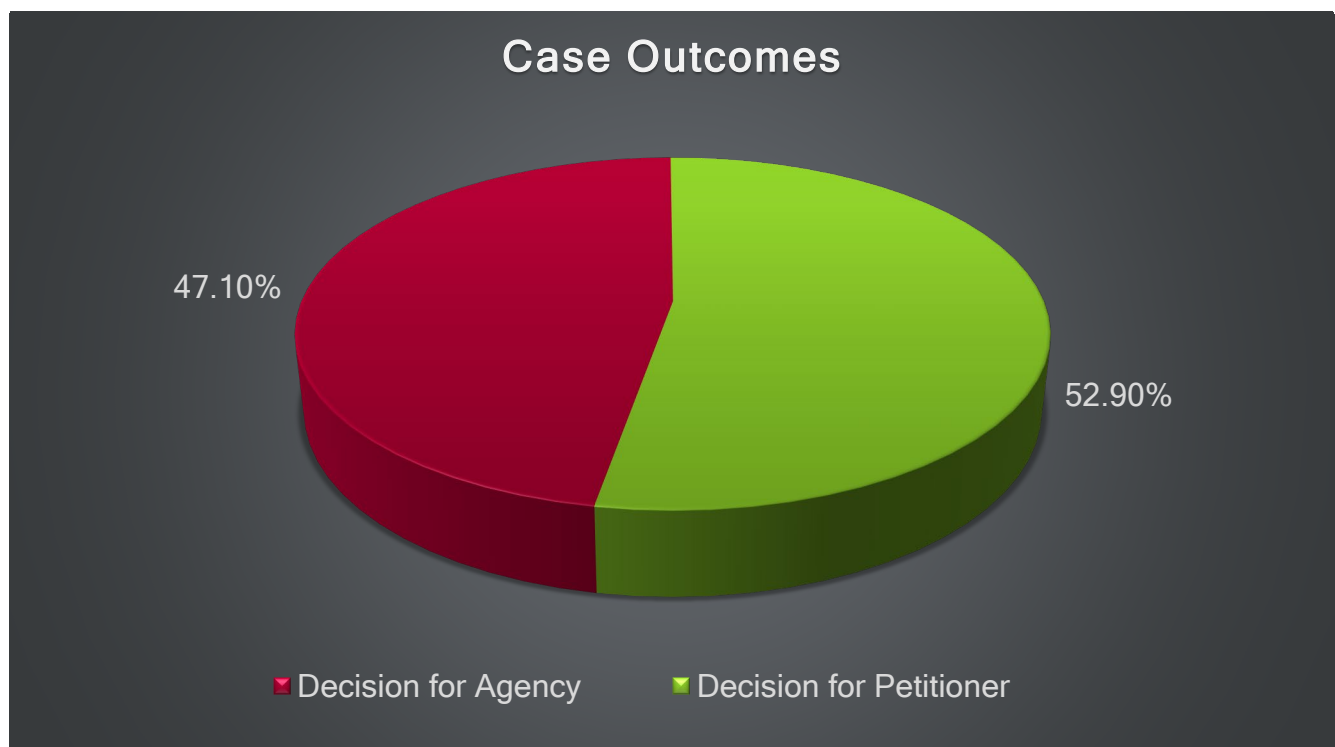
Non-agency parties (that is, citizens and businesses) generally seek relief either in the form of relief from an existing agency order, or in the form of the granting of an application/permit made to the agency. For 2023, in contested case proceedings that went to decision (versus matters that were resolved prior to decision), non-agency parties prevailed in securing such relief 15.3% of the time:



## Case Outcomes – Non-ITD

A number of OAH contested case proceedings involve ITD matters, especially matters related to licensure, including, most notably, suspensions and disqualifications arising from other underlying events, such as DUI arrests, perceived medical conditions requiring re-testing, or multiple driving-related convictions.

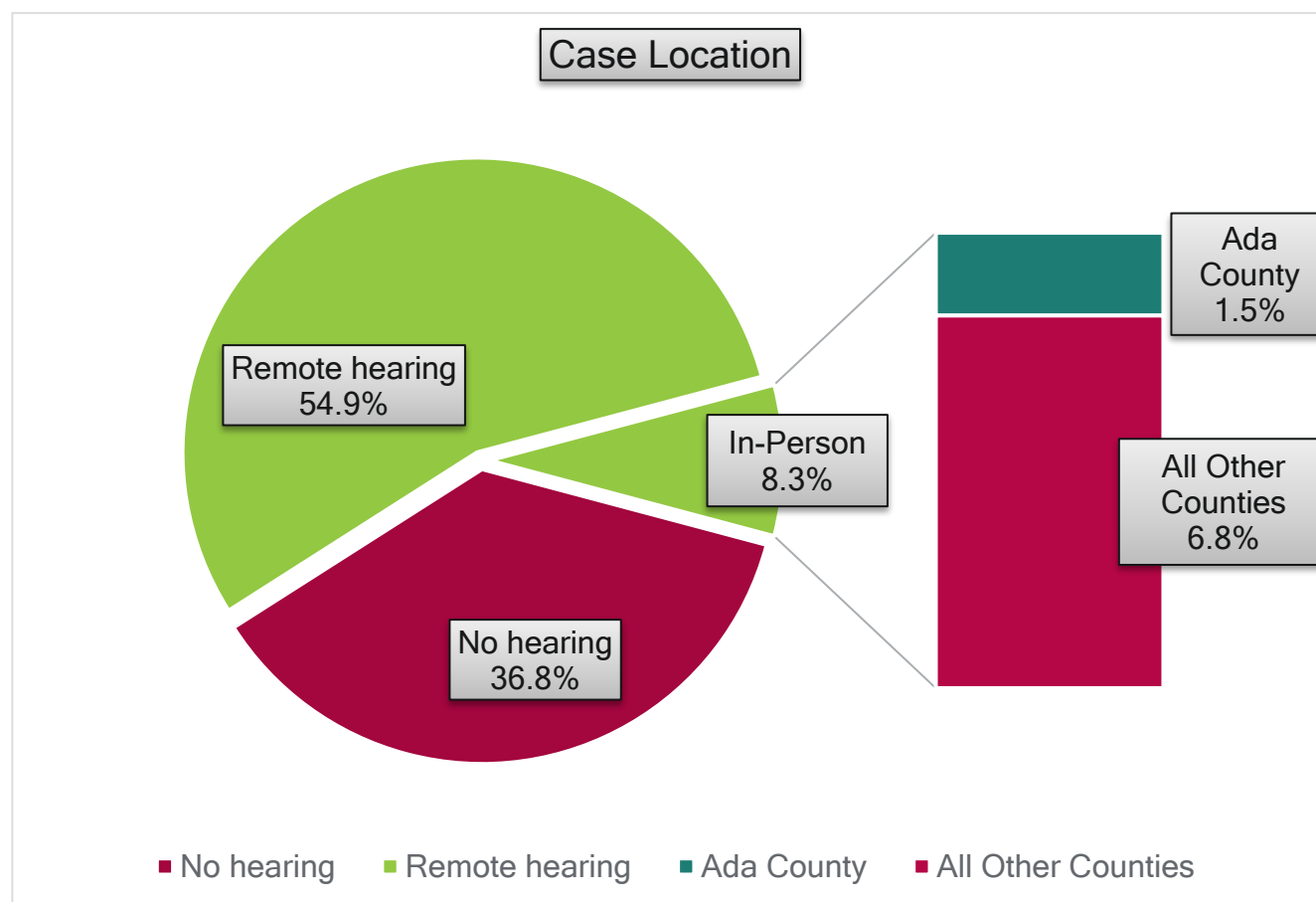
As these ITD matters typically turn on prior determinations made by other administrative bodies and/or the court system, isolation of other case outcomes in non-ITD contested case proceedings demonstrates that, in those matters, the non-agency party is actually more likely than not to successfully challenge an agency action and/or be granted a requested application/permit:





## Hearing Locations

OAH allows parties to conduct their contested case proceedings either in-person or remotely, which decision is made by the parties. For matters that are conducted in-person, the OAH hearing officer will work with the parties to identify a location for the hearing, if not otherwise set by statute (e.g., PERSI hearings are required to be held in Ada County). As a result, OAH hearing officers conduct “field hearings” across the State when the proceeding necessitates it:



## Key Deadline – Time to Appointment

For its first year of operations, OAH determined that two key timeframes should be tracked for analysis: time for appointment of a hearing officer on a matter, and the time from case receipt to issuance of the concluding order (which is typically either a recommended or preliminary order sent to the agency head).

Recognizing that the contested case process before an OAH hearing officer may be, for many petitioners, the first step before additional levels of review (either by an agency head or the court system), OAH recognized the need to ensure that the appointment process should be made as quickly as feasibly possible. Prompt assignment allows the assigned hearing officer to immediately set initial hearings, to include scheduling conferences.

In light of that, OAH set an internal standard that aims to 1) confirm receipt with the assigning agency within 1 business day of assignment, and 2) thereafter make a hearing officer appointment within 1 business day after acknowledgment of receipt. Cases may be assigned even more promptly than this target.

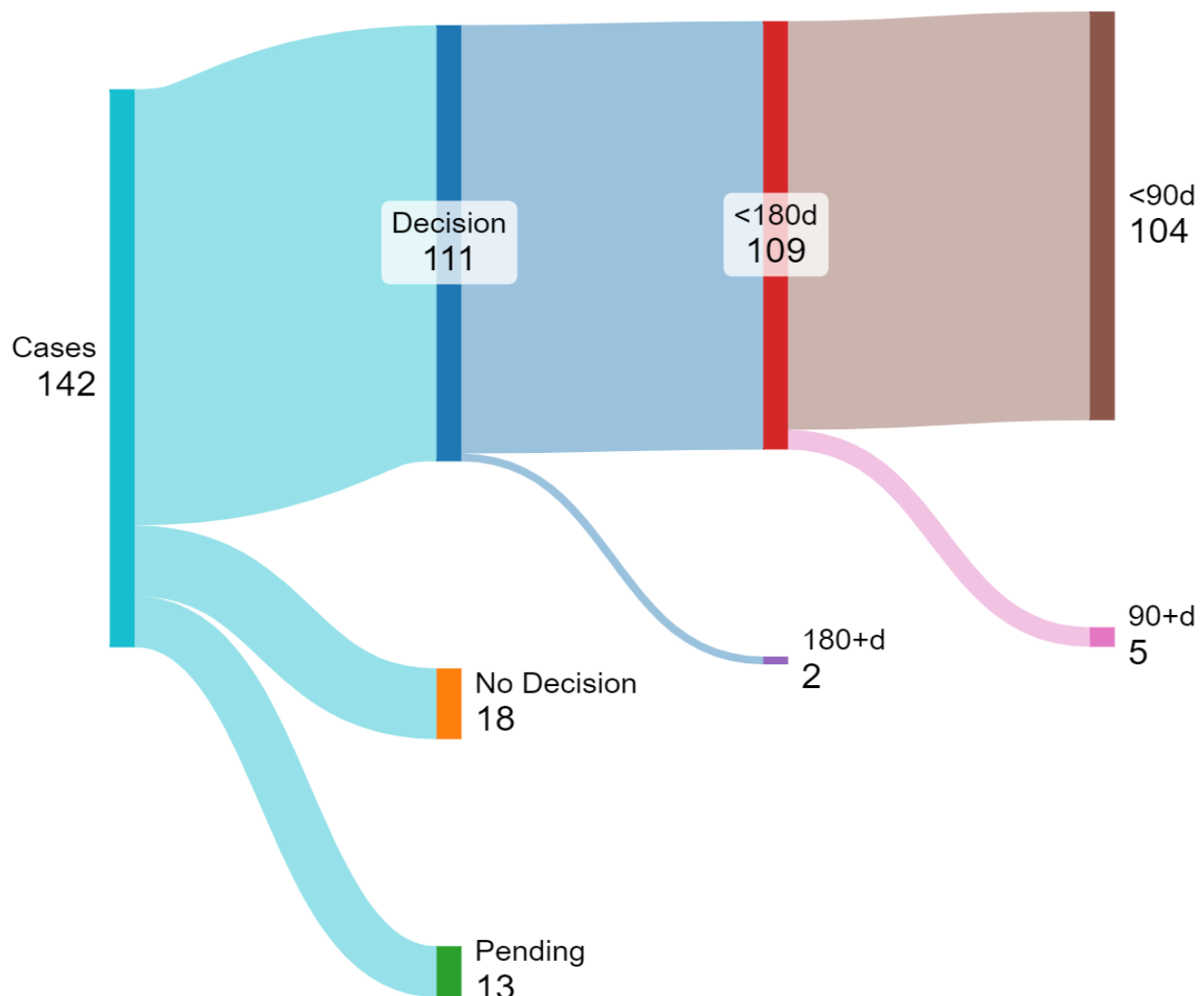
Despite challenges that may arise from assessing caseloads, evaluating potential conflicts, and ensuring that all needed information had been received from the assigning agency, OAH was able to meet this 2-business day standard in **97.2%** of its 2023 contested case assignments (138 out of 142 cases).

Additionally, as OAH was able to more rapidly assign certain matters, the average time from assignment by an agency to appointment of a hearing officer, across all case assignments, was **1.4 business days**.

## Key Deadline – Time to Order

For 2023, OAH set a goal of issuing decisions within 180 days of assignment.

For 2023, for cases that resulted in a concluding order, 98.6% had orders issued within 180 days of agency assignment. OAH did an additional datapoint analysis, and found that, even more impressively, 95.1% of cases had concluding orders issued within 90 days of agency assignment. Across all cases, the average time-to-order was 25.6 days; for non-ITD matters, it was 74.0 days.



## Rulemaking

One of the major projects undertaken by OAH during 2023 was an extensive review and revision of the existing Rules of Administrative Procedure of the Attorney General, which were initially promulgated in 1992, and which had not been significantly revised since. OAH is directed by statute (I.C. §67-5206(3)) to make such revisions and assume custodial control of those rules, which generally govern all contested case proceedings before Idaho agencies, whether the presiding officer is an OAH hearing officer or otherwise.

OAH's general approach was to modernize and simplify the rules. This was done not only to ensure that they were easier to read by both practitioners and self-represented litigants, but also to ensure that the rules followed modern standard practice and to correct conflicts with Idaho's Administrative Procedure Act.

To ensure that the public and Idaho's agencies had the opportunity to provide input in the updating of the rules, OAH conducted extensive negotiated in-person rulemaking sessions across the state, which were also available for remote attendance:

July 19, 2023	10 a.m. to noon	<b>Coeur d'Alene</b> (NIC)
July 19, 2023	3 p.m. to 5 p.m.	<b>Moscow</b> (UI Law)
July 25, 2023	10 a.m. to noon	<b>Boise</b> (Chinden Campus)
July 28, 2023	10 a.m. to noon	<b>Boise</b> (JRW Building)
August 1, 2023	Noon to 2 p.m.	<b>Pocatello</b> (ISU SUB)
August 2, 2023	10 a.m. to noon	<b>Boise</b> (JRW Building)
August 3, 2023	11 a.m. to 1 p.m.	<b>Twin Falls</b> (TF County Library)
August 4, 2023	1 p.m. to 3 p.m.	<b>Boise</b> (JRW Building)

These rules are now in pending status, with a proposed effective date of July 1, 2024.

## Trainings

OAH's philosophy as to training is that all in-house hearing officers have an ongoing duty to continually undertake training efforts, both in educating themselves and other hearing officers, but also educating key public and agency stakeholders about OAH's operations.

With respect to self-training and training of other hearing officers, OAH's hearing officers were involved in the following key trainings:

- "Administrative Law: Fair Hearing" - 2-week, full-time course for new administrative law judges at the National Judicial College in Reno, Nevada.
- 40-hour mediation training - required by OAH policy to serve as a mediator, consistent with Idaho Supreme Court mediator roster standards
- 6-hour arbitration training - required by OAH policy to serve as an arbitrator.
- Quarterly CLEs with all OAH contract hearing officers, typically including an ethics component.
- Other remote learning administrative law courses, typically through the National Judicial College.

OAH's hearing officers also provided trainings to other stakeholders, including:

- Multiple "Who We Are and What We Do" presentations to various Idaho State Bar sections, the Idaho Trial Lawyers Association, the Idaho Association of Defense Counsel, the University of Idaho Law School, the Boise Bench Lions Club, and various state agencies (as requested).
- CLEs on various administrative law topics, including the Chevron doctrine and Artificial Intelligence usage.



## Budgetary Efficiency

In September 2023, the Chief Administrative Hearing Officer and their Deputy Chief were invited to attend the Central Panel Directors' Conference, an annual meeting for all Chief Administrative Law Judges from all states which have a "central panel" administrative hearing agency - that is, a stand-alone, independent agency which provides ALJs to preside over contested case proceedings, like Idaho. The scope of the differing states' central panels' operations varies from state-to-state, but the central panel is the majority model in use around the U.S. (approximately 30 states).

Based on information provided and the conference and other publicly-available information, the most currently comparable central panel agency to Idaho's, by way of size, is the North Dakota's OAH, which also has 3 ALJs:

State	Annual Budget	ALJs	Other Staff	\$/ALJ
<b>Idaho</b>	\$816,900	3	1	\$272,300
<b>North Dakota</b>	\$1,500,205	3	2	\$506,068

For FY2025, OAH has requested an increase in size to 9 FTP (6 ALJs, 3 staffers) to address the takeover of Idaho Department of Health and Welfare contested cases statutorily mandated to occur on July 1, 2024, with a requested budget of \$1,589,000. Should these requests be granted, Idaho would be, by size, most similar to Wyoming and South Carolina:

State	Annual Budget	ALJs	Other Staff	\$/ALJ
<b>Idaho</b>	\$1,589,000 (req).	6	3	\$264,833
<b>Wyoming</b>	\$2,081,141	6	5	\$346,857
<b>S. Carolina</b>	\$6,470,371	6	15	\$1,078,395

Accordingly, Idaho's OAH - both currently and as requested - stands atop its peers in terms of budgetary efficiency, without sacrificing quality of service.

\* Statutorily, Idaho uses the term "hearing officer"; modern administrative parlance utilizes the term "administrative law judge" (ALJ) - in function, these terms are interchangeable, and non-executive hearing officers in Idaho are classed by DHR as ALJs.

## Questions?

Questions regarding this report may be directed to:

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