

WES MOORE  
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CHUNG K. PAK  
CHIEF ADMINISTRATIVE LAW JUDGE

## OFFICE OF ADMINISTRATIVE HEARINGS

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January 21, 2025

### **Office of Administrative Hearings Fiscal Year 2026 Operating Budget Response to Department of Legislative Services Analysis**

**TO:** Senate Budget and Taxation Committee  
Subcommittee on Public Safety, Transportation,  
and Environment  
Schweinhart Hearing Room  
Chair: Senator Michael A. Jackson  
Hearing Date: January 24, 2025

House Appropriations Committee  
Subcommittee on Public Safety and Administration  
Room 145  
Chair: Delegate Jazz Lewis  
Hearing Date: January 29, 2025

**FROM:** Chung K. Pak, Chief Administrative Law Judge *CKP*  
Office of Administrative Hearings

**REF:** Agency Code D99A11  
Fiscal Year 2026 Budget

#### **Discussion Item:**

**OAH should comment on if data is tracked regarding which types of cases ADR techniques are most successful in resolving. The Department of Legislative Services recommends the adoption of committee narrative requesting that OAH include additional measures regarding the use of ADR techniques in the annual MFR submission.**

**OAH Response:** OAH offers ADR in all case types, and OAH's rules specifically provide for ADR, when all parties agree to participate. See COMAR 28.02.01.18. For cases that involve a prehearing conference, ALJs encourage the parties to consider ADR, whether it be a settlement conference or mediation. If the parties opt for ADR, OAH assigns another ALJ for that process. **One of the limitations of ADR is that it is voluntary;** parties cannot be compelled to participate in ADR before the OAH. OAH does not track which types of cases ADR techniques are most successful in resolving, and there are many variables that come into play in the success of any ADR proceeding. Some of these variables include, among others: the nature of the dynamic between the parties even before the matter reached the OAH; the nature and complexity of the issues in the case; the effectiveness of rapport-building during the mediation; and the parties' willingness to compromise and be flexible. Moreover, if ADR is conducted, but no settlement is reached, the time to disposition can be extended.

All ALJs are trained mediators, and by law OAH mediates foreclosure and special education cases and routinely mediates Patient's Bill of Rights cases (notice of involuntary discharge from a nursing facility). Recently, in consultation with the Department of LABOR, OAH established a pilot program to mediate Home Improvement Commission cases. This program started in January and runs through April. By regulation, some case types are subject to ADR prior to the agency sending the matter to the OAH for a hearing, such as Board of Physicians cases and SPMS cases. See COMAR 10.32.02.03E(9); 17.04.07.06 & .07; State Personnel & Pensions Art., § 11-110(b)(1)(i)). COMAR 17.04.07.14 places some limits on OAH's ability to conduct a settlement conference in SPMS cases. In addition, OAH has found that parties in Commission on Civil Rights and Maryland Department of the Environment cases are often amenable to settlement conferences and/or mediation.

**Department of Legislative Services (DLS) Recommended Action:**

Concur with Governor's Allowance

**Office of Administrative Hearings Response:**

Agree with DLS recommendation