

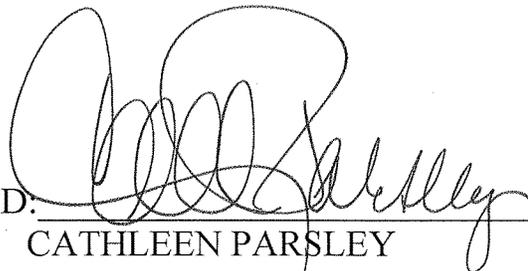
REPORT ON CUSTOMER SERVICE

FISCAL YEAR 2011

STATE OFFICE OF ADMINISTRATIVE HEARINGS

SUBMITTED JUNE 1, 2012

SIGNED AND APPROVED:

A handwritten signature in black ink, appearing to read 'Cathleen Parsley', written over a horizontal line.

CATHLEEN PARSLEY
CHIEF ADMINISTRATIVE LAW JUDGE

**STATE OFFICE OF ADMINISTRATIVE HEARINGS
REPORT ON CUSTOMER SERVICE**

FY 2011

**INVENTORY OF EXTERNAL CUSTOMERS SERVED AND
DESCRIPTION OF THE INFORMATION-GATHERING METHODS UTILIZED TO
OBTAIN INPUT FROM AGENCY CUSTOMERS**

The State Office of Administrative Hearings (SOAH) conducts an annual Customer Satisfaction Survey in order to report its measure, "Percentage of Participants Surveyed Expressing Satisfaction with Overall Process." The data collection begins with the compilation from SOAH's case databases (the Case Management System for general docket cases and Lotus Notes for the administrative license suspension cases) of a list of the cases in which the hearing or alternative dispute resolution process was completed with the fiscal year. For Fiscal Year 2011, the list was taken from cases completed from September 1, 2010, through August 31, 2011. A computer program then randomly selects from among all those cases' participants the persons to whom the survey will be sent. Targeting participants in completed cases is designed to ensure that survey recipients have had meaningful contact with SOAH. Participants may be attorneys who have represented parties in hearings and parties themselves.

Data collection and preparation of the survey document occur in May of each year. The survey is disseminated in June, with responses to be returned in approximately 30 days. In FY 2011, SOAH mailed surveys and made it available on Survey Monkey. Results are tabulated by mid-August and are reported in SOAH's report of annual measures to the Legislative Budget Board. Also, SOAH is required to report survey results in its biennial Legislative Appropriations Request.

SOAH distributed 1,100 surveys for the FY 2011 survey. Of those, 80 were returned, for a return rate of 7%. Survey recipients may include attorneys, parties, and non-attorney party representatives. All survey responses are anonymous.

CUSTOMER-DETERMINED SERVICE QUALITY CHART

Survey Inquiry Question	Satisfied	Dissatisfied	No Opinion	Percentages
STAFF: Courtesy and professionalism	73	4	3	94.8 %-satisfied 5.2%-dissatisfied
Responsiveness to inquiries	75	1	4	98.7%-satisfied 1.3%-dissatisfied
Knowledge of SOAH procedures	70	4	6	94.6%-satisfied 5.4%-dissatisfied
JUDGES: Knowledge of applicable laws and procedures	57	15	8	79.2%-satisfied 20.8%-dissatisfied
Timeliness of decisions	69	5	6	93.2%-satisfied 6.8%-dissatisfied
Courtesy and professionalism	64	12	4	84.2%-satisfied 15.8%-dissatisfied
Fairness and efficiency of hearing	58	15	7	79.5%-satisfied 20.5%-dissatisfied
MEDIATION:ⁱ Satisfaction with process	20	7	7	74%-satisfied 26%-dissatisfied
FACILITIES: Adequacy of hearing rooms	63	10	7	86.3%-satisfied 13.7%-dissatisfied
Office location and accessibility	60	12	8	83.3%-satisfied 16.7%-dissatisfied
COMMUNICATION: Timely responses to complaints	51	4	25	92.7%-satisfied 7.3%-dissatisfied
Quality of written materials	68	4	8	94.4%-satisfied 5.6%-dissatisfied
Website usefulness	56	8	16	87.5%-satisfied 12.5%-dissatisfied

ⁱ To tabulate the satisfied/dissatisfied percentages for mediation, SOAH counted only the responses from responders who had participated in mediations. (The percentages total more than 100% due to rounding.) Sixty-three percent of the total survey responses answered “not applicable” to the mediation question.

**CUSTOMER-DETERMINED SERVICE QUALITY
CUSTOMER SATISFACTION SURVEY OVERALL RESPONSE FY 2011**

YEAR	TOTAL SENT	TOTAL RESPONSES	% OVERALL SATISFACTION	% OVERALL DISSATISFACTION	NO OPINION
2011	1100	80	78.9%	21.1%	9

ANALYSIS OF SURVEY FINDINGS AND RESPONSES TO COMMENTS RECEIVED

SOAH believes the overall satisfaction rate of approximately 79% reflects the high regard in which SOAH is generally held. SOAH will endeavor to address identified areas where improvement can be made in an effort to provide the best service possible. Because the hearings process inherently includes both winners and losers, approximately half of the parties who interact with SOAH are, by definition, disappointed with the outcome of their case. SOAH's 79% satisfaction rate indicates that even many losing parties have a favorable view of SOAH, which we believe reflects positively on the agency.

The analysis below focuses primarily on specific suggestions and comments offered by survey respondents.

Overall Satisfaction. Comments included:

- ▶ Very professional, always a positive experience at SOAH.
- ▶ Very professional and accessible.
- ▶ Quite pleased with the process.
- ▶ SOAH does a good job with the resources available.

SOAH appreciates these comments, which are consistent with the high level of overall satisfaction expressed in the survey. SOAH will endeavor to maintain the highest overall satisfaction level achievable consistent with the contested nature of its work.

Courtesy and respect. Comments included:

- ▶ Staff generally courteous and helpful, but one ALJ very rude.
- ▶ Judge one-sided in decision and appeared unfair and to have already made up mind.
- ▶ Judge needs "attitude adjustment"—not a real judge, "just a crappy state employee like me."
- ▶ A couple of judges were disrespectful to agency attorneys and should respect their limited resources and realize the attorney is not in control of the position taken by the agency.
- ▶ Judge biased towards one party and not familiar with rules of evidence.
- ▶ When had complaint, SOAH response was prompt and concerns addressed.

Approximately 95% of responders reported that SOAH staff was courteous and professional to them, and about 84% reported that the ALJ was courteous and professional. These percentages are high (and the somewhat lower rate of responders satisfied with the ALJ on these issues may reflect the ALJ's duty to maintain control of what can be emotionally charged hearings).

Because of the importance of this issue, however, and in an effort to ensure that all hearings participants are treated with appropriate courtesy and respect, SOAH will provide additional training to its ALJs on this topic. The challenge is to ensure that everyone involved in the hearing feels that they are respected and treated appropriately even when the ALJ's duties require the ALJ to make rulings with which they may vehemently disagree—for example, excluding information, even information a party might believe is critical to the case, if it is inadmissible under the rules of evidence.

Judges' knowledge/timeliness. Comments included:

- ▶ Overall positive experience but depends on the judge.
- ▶ Should shorten decisions in order to be timely.
- ▶ Judge let other lawyers run over him and should have shut down frivolous and redundant objections and arguments.
- ▶ Judges commit serious errors and need better training in discovery rules.
- ▶ ALJs are generally informed and professional, but one mismanaged a continuance motion.
- ▶ The ALJ was the only “useful bureaucrat” the responder encountered.
- ▶ It seems that most PFDs are not timely. Judge disregarded applicable law and the parties' stipulations.

Again, despite the fact that half of hearings participants lose their case, 79% of survey responders reported that their ALJ was knowledgeable of the applicable laws and procedures and ran their hearing fairly and efficiently. SOAH's ALJs do receive continuing legal education in areas relevant to their work, including the rules of evidence and procedure, and we will continue to strive for excellence in this area. Finally, despite occasional complaints regarding timeliness, 93% of responders stated that their decision was issued timely.

Facilities. Comments included:

- ▶ No parking, access could be better, location great.
- ▶ Hearing rooms adequate, but barely, and larger rooms would be nice for multi-party cases.
- ▶ Problems with audio system, especially when someone appears by phone in an otherwise in-person hearing.
- ▶ Hearings should be in the local area rather than in Austin.
- ▶ Parking insufficient.

Most of these concerns are outside of SOAH's direct control. Aside from parking challenges, over which SOAH has no control at all, we do believe the hearing facilities are adequate. While there are occasional technical issues with SOAH's audio system, which is owned by the Texas Facilities Commission, we believe the system is generally adequate for its task. Finally, SOAH does hold many hearings in the local area, but budget constraints both at SOAH and our referring agencies require us to hold many

other hearings in Austin. Subject to the specific circumstances in a case, witnesses and parties may request to appear by video link or by telephone.

SOAH rules and other online or written materials. Comments included:

- ▶ Would appreciate more user manuals with timelines and guides to SOAH rules and procedures.
- ▶ Interplay with TABC rules is frustrating, but SOAH rules are clear so this is not SOAH's fault.
- ▶ Electronic case files are GREAT!
- ▶ Website difficult to understand.
- ▶ Procedural rules should be available in PDF.
- ▶ Requirement to file multiple paper copies of documents a great burden when electronic copies accessible.

SOAH completed a major makeover of its home page in September 2009, which we believe organizes the site in a user-friendly manner and provides access to our most frequently requested resources including our procedural rules, a PFD search function, answers to frequently asked question, and links to governing statutes. In November 2010, SOAH also implemented an electronic case information system effective November 2010. This new system provides convenient on-line access to all documents filed or issued by SOAH in non-confidential cases.

We will continue to refine these new tools. In particular, SOAH agrees with the suggestion to post our procedural rules in PDF format. This will improve their usability over the current link to the Texas Register format.

Unfair/pointless system.

- ▶ Commenter was told by private lawyers that he could not have a court-appointed attorney for ALR and that it is "damn near impossible" to win.
- ▶ SOAH decisions carry no weight because agencies regularly appeal them so what's the point? The non-SOAH attorneys and technical staff contributed nothing.

These comments generally relate to issues outside of SOAH's control. The statutory framework for the civil ALR program does not provide for court-appointed attorneys, and SOAH has no authority or budget to change this. While DPS does prevail in most hearings, defendants who engage fully in the hearing can and do win their cases with some regularity. The outcome is driven by the facts presented and the legal framework.

Likewise, SOAH cannot control the quality of the staff representing a referring agency or what degree of deference the final decision maker will accord our PFDs. Nevertheless, it is SOAH's experience that the large majority of our findings and recommendations are, in fact, adopted by the referring agency.

Mediation.

- ▶ Very good experience with mediation—should promote more.
- ▶ Mediations require unavailable resources—maybe parties should be allowed to participate remotely; mediator unfamiliar with agency agreed orders.

SOAH strongly believes that the mediation services it offers are valuable in facilitating many agreed resolutions that avoid the uncertainty and allow parties to maintain control over the outcome of their cases. We note that 74% of survey responders who participated in mediation were satisfied with the process. SOAH appreciates the significant investment of resources required for mediation, including having persons with technical expertise and settlement authority physically present, but it is our experience that these elements are important elements of many successful mediations. Additionally, the cost of mediation is modest compared with the cost of bringing a case to hearing and final contested decision. SOAH notes that, historically, approximately 75-80 % of our mediations have resulted in settlement agreements that have avoided the need for a hearing.

**PERFORMANCE MEASURE INFORMATION
RELATED TO CUSTOMER SERVICE**

Customer Service Measure	FY 2011
Percentage of Surveyed Customer Respondents Expressing Overall Satisfaction with Services Received	78.8%
Percentage of Surveyed Customer Respondents Identifying Ways to Improve Service Quality	21.1%
Numbers of Customers Surveyed	1,100
Number of Customers Served ⁱ	45
Cost per Customer Surveyed ⁱⁱ	\$1.25
Number of Customers Identified	1,100
Number of Customer Groups Inventoried	1

ⁱ Number of Customers Served refers to the number of agencies for which SOAH did work in FY 2011. Some agencies referred large numbers of cases and all cases involved more than one party. Therefore, the figure for customers surveyed is much larger than the number of customers served.

ⁱⁱ Cost per customer surveyed is calculated at \$1.25 per page and includes the cost of postage, but does not include administrative costs incurred to prepare and distribute the survey and tabulate the responses. SOAH also used Survey Monkey to conduct part of the survey and tabulate results. This has been included in its cost calculation.

SOAH's satisfaction percentage has ranged from 76% in FY 2006 to 87.4% in FY 2010. The average satisfaction rate over the last five fiscal years is 82.6%. SOAH estimates that its performance in FY 2012 will be in this range.