

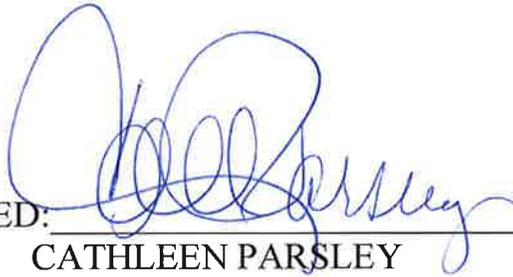
REPORT ON CUSTOMER SERVICE

FISCAL YEAR 2013

STATE OFFICE OF ADMINISTRATIVE HEARINGS

SUBMITTED MAY 30, 2014

SIGNED AND APPROVED: _____



CATHLEEN PARSLEY
CHIEF ADMINISTRATIVE LAW JUDGE

STATE OFFICE OF ADMINISTRATIVE HEARINGS
REPORT ON CUSTOMER SERVICE
FISCAL YEAR 2013

**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 during the fiscal year. For Fiscal Year 2013, the list was taken from cases completed from September 1, 2012, through August 31, 2013. 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 occurred in May 2013. The survey was disseminated in June 2013, with responses to be returned in approximately 30 days. SOAH administered the survey through SurveyMonkey. Results were 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.

By postcard advising them of the availability and Internet location of the survey, SOAH notified 1,100 individuals of the FY 2013 survey. Of those, 103 individuals responded for a return rate of 9.3%. Survey responses are anonymous except where the responding individual included his or her name.

Customer-Determined Service Quality Chart

CUSTOMER-DETERMINED SERVICE QUALITY CHART

Survey Inquiry Question	Satisfied	Dissatisfied	No Opinion	Percentages
STAFF: Courtesy and professionalism	88	5	10	94.6%-satisfied 5.4%-dissatisfied
Responsiveness to inquiries	88	6	9	93.6%-satisfied 6.4%-dissatisfied
Knowledge of SOAH Procedures	86	6	11	93.5%-satisfied 6.5%-dissatisfied
JUDGES: Knowledge of applicable laws and procedures	72	16	15	81.8%-satisfied 18.2%-dissatisfied
Timeliness of decisions	76	10	17	88.4%-satisfied 11.6%-dissatisfied
Courtesy and Professionalism	77	9	17	89.5%-satisfied 10.5%-dissatisfied
Fairness and efficiency of hearing	71	13	19	84.5%-satisfied 15.5%-dissatisfied
MEDIATION:¹ Satisfaction with process	17	8	13	68%-satisfied 32%-dissatisfied
FACILITIES: Adequacy of hearing rooms	79	4	20	95.2%-satisfied 4.5%-dissatisfied
Office location and accessibility	83	2	18	97.6%-satisfied 2.4%-dissatisfied
COMMUNICATION: Timely responses to complaints	63	12	28	84.0%-satisfied 16.0%-dissatisfied
Quality of written materials	74		17	86.0%-satisfied 14.0%-dissatisfied
Website usefulness	77	10	16	88.5%-satisfied 11.5%-dissatisfied

¹ To tabulate the satisfied/dissatisfied percentages for mediation, SOAH counted only the responses from responders who had participated in mediations. Seventy-two percent of the total survey responses answered “not applicable” to the mediation question. Because of the lack of applicability of the mediation question to more than 70 percent of responders, the satisfaction percentage was not included in the calculation of the overall satisfaction percentage. Future surveys will include the mediation percentages.

CUSTOMER-DETERMINED SERVICE QUALITY

CUSTOMER SATISFACTION SURVERY OVERALL RESPONSE FY 2013

YEAR	TOTAL SENT	TOTAL RESPONSES	% OVERALL SATISFACTION	% OVERALL DISSATISFACTION
2013	1100	103	89.2%	10.8%

Analysis of Survey Findings and Responses to Comments Received

The overall satisfaction rate of 89.2% indicates that SOAH's work and the manner in which it implements its mission are held in significant regard, even by those who may be disappointed in the outcomes of their cases. SOAH believes that the satisfaction rate indicates that it is successfully providing due process and a fair and independent forum for administrative contested cases. Where improvements can be identified, SOAH will endeavor to make them.

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

Overall satisfaction. Comments included:

- ▶ A very good process. "I wish SOAH had regulation over pipelines."
- ▶ ALJs very professional and attentive through several days of tedious testimony.
- ▶ Excellent work product and service.
- ▶ Very professional, responsive and fair.
- ▶ Administrative Law Judges are excellent.
- ▶ Happy with SOAH, especially Docketing—"they are great." ALJ quality varies, but is mostly okay.
- ▶ ALJ only wanted to deal with attorneys. Believes the ALJs are advocates for the appraisal districts. In two cases, the ALJ "tortured/ignored long standing case law or turned it upside down."
- ▶ Some of the ALJs are clearly biased and do not even maintain appearance of impartiality.
- ▶ Appreciates ALJs who approach each case with an open mind. Some ALJs seem to rule the same way on certain types of cases and some seem "dead-set" on ruling against cases brought by certain agencies, which results in illogical decisions and PFDs and damages SOAH's credibility.
- ▶ Overall, commend SOAH's ALJs for their fairness in conducting proceedings and their well-reasoned recommendations.
- ▶ Very impressed with the entire process, and the ALJ was equally impressive, handling complicated and emotionally charged issues impartially, with thoroughness and attention to detail.

SOAH appreciates all of the comments. It believes that the positive comments are reflective of the high level of satisfaction expressed in the survey. The critical comments present an opportunity for reflection and self-examination to ensure that the agency is carrying out to the best of its ability its important mission. SOAH takes any assertion of bias seriously. It will remind the Administrative Law Judges (ALJs) that a fundamental part of the agency's mission is to provide a fair and impartial forum, and it is vital that fairness and impartiality must be present in both fact and appearance. SOAH would point out, however, that proposals for decision and final decisions are peer reviewed for clarity, logic, legal soundness, and judicial tone before they are issued. In addition, an element of the ALJs' annual performance evaluations is whether they preside with appropriate judicial temperament and demeanor. Any legitimate concern about partiality or lack of judicial temperament, should it be borne out by the facts, will be addressed promptly.² Finally, SOAH notes that 84.5 percent of survey responders answered that the ALJ conducted their hearings fairly and efficiently. It is inherent in the adversarial process that there will be winners and losers, and approximately half of hearing participants will be disappointed in some respect in the outcome of their case. The high rate of satisfaction reflected in the survey results indicates that even those who "lost" believe they received a fair hearing.

Courtesy and respect.

- ▶ The staff was always very responsive and helpful.
- ▶ A member of the SOAH staff was rude and dismissive and told the commenter he or she should have hired an attorney. The commenter also complained that the underlying factors prompting his or her resignation from the school were not addressed in the hearing and that other considerations were not allowed.

SOAH agrees that anyone contacting SOAH's office with questions must be treated with courtesy and respect. It believes its staff is very courteous and respectful, as the overwhelmingly positive percentages to the survey's inquiries about responsiveness and courtesy and professionalism on the part of both ALJs and staff reflect. SOAH's staff cannot, however, provide legal advice, and they scrupulously observe SOAH's charge that they be appropriately helpful and courteous without giving legal advice. SOAH has provided training to its staff to assist them in differentiating between the two and instructing them to direct an inquiry to the General Counsel at any time if they feel they are being asked questions they cannot answer.

To the commenter's assertion that underlying factors were not considered, it may have been that the applicable statute and rules prescribed the relevant factors that the ALJ could consider. It may also have been that the school's actions that led to the commenter's resignation were not

² The commenter who complained that the ALJs were advocates for the appraisal districts and tortured or ignored longstanding case law gave his name and contact information and invited someone from SOAH to contact him about his comments. The Chief Administrative Law Judge did so. Following that telephone conversation, she listened to the recordings of the two hearings that were the subjects of his comments and read the final determinations issued by the ALJs, as well as all of the prehearing orders in the two cases. She responded in writing to the commenter with her findings, which were that neither of the ALJs who had presided in the hearings was biased, nor did they display the slightest bias in their handling of the cases. To the contrary, they were professional, polite, and capable. Their determinations were thorough, well written, and logically and legally sound.

relevant to the issues before the ALJ, and therefore, the ALJ appropriately excluded evidence about them.

Judges' knowledge/timeliness.

- ▶ An ALJ's rulings on very complex issues were thorough and well-reasoned and the orders provided valuable guidance that assisted the parties in preparing for trial. ALJs occasionally cut off cross-examinations prematurely. ALJs must control the proceedings, but more leeway in developing the record would be greatly appreciated, as state's attorneys often do not have the resources (time or money) to conduct extensive discovery or depositions. State's attorneys are at a disadvantage and must do as best they can in trial to create a full and complete record.
- ▶ Better understanding and adherence to SOAH's procedural rules and evidence rules and better understanding and application of agency rules and statutes would help improve the quality of the decisions issued by SOAH.
- ▶ ALJ was not as knowledgeable about the law as the commenter had expected.
- ▶ Written rulings should explain the basis [for the ruling]. Inadmissible evidence should be excluded from the beginning and according it less weight does not cure admissibility.
- ▶ Proposal for Decisions were received within regulatory time periods; however, at least in one instance the ALJ's response to filed PFD exceptions and the filed exceptions response were not timely received by agency.

Almost 82 percent of survey responders replied that the ALJ was knowledgeable about applicable laws and procedures, and over 84 percent believed the ALJ conducted the hearing fairly and efficiently. Again, these results are against the backdrop of a contested process in which approximately half of the parties will not have an outcome to their liking. SOAH's ALJs receive continuing legal education in areas relevant to their work, including the rules of evidence and procedure. Likewise, 88.4 percent of responders said their decision was issued timely.

Facilities.

- ▶ Would be helpful to get the WiFi working in the hearing rooms. With all the computers and smartphones in a large hearing, it may be that the wireless is simply overloaded. An upgrade is needed.
- ▶ Sound system is "terrible" and the sound quality of hearing recordings is poor, making it "torture" to listen to them. The sound system and recording quality also create difficulties when a witness testifies by telephone.

SOAH installed wifi in its Austin hearing facility approximately two years ago so that attorneys and parties could use technology in presenting their cases. SOAH's information technology staff has done wonderful work in assuring that the wifi works and is available for SOAH's hearings. Nevertheless, SOAH understands that an overcrowded network is very frustrating to those expecting to use it to try a case, and it will explore options for making the wifi less congested.

The sound system in SOAH's hearing rooms is owned by the Texas Facilities Commission, and it is generally adequate for the purpose. SOAH moved to digital recorders several years ago in an effort to improve the quality of hearing recordings, and it believes the recordings are better, as a general matter. Again, however, SOAH understands that any difficulties presented by the

sound system and the method of recording hearings are frustrations. As it prepares for the next legislative session, SOAH will consider possible solutions to these matters as potential subjects for exceptional item funding requests insofar as it has any control over or input about them.

SOAH rules and other online or written materials.

- ▶ Docket not always updated correctly when continuances are granted.
- ▶ Docketing a case needs to be automated and a master calendar made available to attorneys needing to set cases.
- ▶ Website could be more user friendly by eliminating the need for a coversheet when filing documents and by being able to hit “enter” after typing search data rather than having to mouse over to click on the search button.

SOAH is researching solutions to upgrade its case management system and integrate it with the agency’s other internal systems and programs. SOAH hopes that any new system will include some automation of the docketing process. In the meantime, SOAH’s docketing staff does an outstanding job handling myriad docketing and scheduling issues, and with an annual case load of approximately 35,000 cases, there will be some errors. SOAH hopes errors will be infrequent. It works hard to eliminate them and to minimize the inconvenience to parties when they occur.

The commenter’s suggestion that users should be able to hit enter to start a search instead of having to use the mouse to click on the search button is a good one, and SOAH wishes it could implement it. It has inquired about it with the system’s developer, and unfortunately, the program’s design will not permit it.

**Performance Measure Information
Related to Customer Service**

Customer Service Measure	FY 2013
Percentage of Surveyed Customer Respondents Expressing Overall Satisfaction with Service Received	89.2%
Percentage of Surveyed Customer Respondents Identifying Ways to Improve Service Quality	11.1%
Numbers of Customers Surveyed	1,100
Number of Customers Served³	52
Cost per Customer Surveyed⁴	\$0.55
Number of Customers Identified	1100
Number of Customer Groups Inventoried	1

SOAH's satisfaction percentage has ranged from 82% in FY 2009 to 88.9% in FY 2012. The average satisfaction rate over the last five fiscal years is 85.3%. SOAH estimates that its performance in FY 2014 will be in this range.

³ Number of Customers Served refers to the number of agencies for which SOAH did work in FY 2013. Some agencies referred large number 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.

⁴ Cost per customer surveyed includes the cost of postage, but does not include administrative costs incurred to prepare and distribute the survey and review the responses.