

Washington State's
Child Support Program



**Child
Support
Hearing
Rights**



Washington State
Department of Social
& Health Services

Transforming lives

What happens at a child support hearing?

Administrative hearings are informal and “user-friendly” legal proceedings usually held by telephone. An independent decision maker called an Administrative Law Judge (ALJ) holds the administrative hearing. ALJs work for the Office of Administrative Hearings (OAH). OAH is not a part of the Department of Social and Health Services (DSHS) or the Division of Child Support (DCS).

ALJs decide about your child support case using case facts and laws related to your situation. You usually appear for the hearing by telephone. You tell your side of the story, as does DCS and the other party. A typical hearing takes one to two hours.

Do I need an attorney?

Most people represent themselves (called pro se) at the hearing. You may represent yourself, or have an attorney, friend, relative, or other person of your choice represent you or assist you during the hearing. There is no right to a free attorney but some law schools, volunteer attorney services associations, and other nonprofit legal organizations may be able to provide help. Additionally, your county’s bar association may be able to direct you to an attorney in your community.

Where can I find child support and hearings law?

You may want to look up the rules that apply to child support hearings. Copies of Washington State laws are available at public and law libraries. You can also look them up on the Internet at:

Revised Code of Washington (RCW) at:

<http://apps.leg.wa.gov/rcw>

(go to Chapters 26, 74 and 74A)

Washington Administrative Code (WAC) at:

<http://apps.leg.wa.gov/wac>

(Go to WAC Chapters 388-14A and 388-02)

Where can I find legal resources?

- **Northwest Justice Project's CLEAR Hotline**
888-201-1014
www.nwjustice.org
- **Washington State Bar Association**
1-800-945-9722
www.wsba.org
- **Legal Voice-Women's Law Center**
866-259-7720
<http://legalvoice.org>
- **Office of Administrative Hearings**
360-407-2700
www.oah.wa.gov
- **Washington Law Help**
www.washingtonlawhelp.org

What does the DCS representative do?

The DCS representative is an attorney who represents the interests of DCS. This person is not your representative. DCS may have interests that are different than your interests. The DCS representative will explain to the ALJ during the hearing what actions DCS took and why. The DCS representative can explain to you how the hearing works and about the general rules and policies for your hearing. If you want to avoid a hearing, you may be able to reach an agreement or settle your case with the DCS representative and the other party. All parties and DCS must agree before a case can settle.

How will I find out when my hearing will be?

OAH sends you a Notice of Hearing that will give you the date and time of the hearing. Make sure that you keep OAH and DCS advised of your current mailing address. You must provide DCS and OAH with your phone number so that the ALJ or DCS representative can call you on the date of the hearing. Call OAH at the time of the hearing if you are not called.

You may participate by phone from any location you want. Be sure your phone is free at the time of the scheduled hearing. If you are unable to be reached, the hearing could be held without you. If you will be using a cell phone for the hearing you should not be in a car or driving during the hearing. Make sure you are available in a location that gets reception and you have enough minutes available for the full hearing. A typical hearing takes one to two hours.

If you have concerns about appearing by phone and want to appear in person contact OAH as soon as possible.

How can I ask for a different date or time for my hearing?

If you cannot be available for your hearing at the scheduled date and time, you can ask for a continuance (a delay). Contact OAH or DCS at least one week before the hearing day to request a continuance. The other parties may not want a continuance. If the parties cannot agree, the ALJ decides if the hearing will be rescheduled. The phone numbers for OAH and DCS are on the Notice of Hearing. You should call OAH or DCS if a last minute crisis will cause you to miss the hearing.

What happens if I don't appear for the hearing?

If you do not participate in the hearing, you will not be able to tell the ALJ what you think is important. The ALJ will decide your child support issues using the facts and evidence presented at the hearing by DCS and any other party. The child support may be set at an amount higher or lower than proposed in the notice or your request for changes may be denied or dismissed. It may not be possible to get the order changed if you don't participate.

What do I do if I am concerned about my personal safety?

Notify DCS or OAH as soon as possible if you have any concerns about your safety during the hearing. Tell DCS if there is a protection or restraining order in place between you and the other party that prevents telephone contact between you and the other party. DCS may not know about this information.

How do I prepare for the hearing?

You can discuss your case with the DCS representative before the date of the hearing. This will allow you to find out exactly what the issues are. You should also use this time to decide if you want to consult an attorney.

If you have any documents that support your case that you want the ALJ and other parties to have during the hearing, you should send or fax copies to the ALJ, DCS and to the other parties at least one week ahead of time.

NOTE: Different types of hearings require different documents.

Examples of documents you might want to provide:

- Copies of your tax returns for the last two years
- Child support worksheets completed with your information only
- Other child support orders for other children
- Papers showing:
 - How much money you make (such as pay stubs, benefit statements, or disability checks)
 - Medical costs including medical insurance paid to cover the child or children
- Receipts for childcare, healthcare or other expenses paid for the children
- Proof of any support paid
- Proof of any special circumstances or payments that you want the ALJ to consider
- You may have witnesses appear by telephone during the hearing or send in their signed, sworn, and dated statements prior to the hearing. All other parties have the right to see your proof and to know who your witnesses are before the hearing.

Block out your address and any other information you do not want released to other parties before you send them to OAH, DCS and the other party.

You should have the documents sent to you by DCS with you for the hearing so you can refer to them. You may make written notes to help you organize your information and help you remember what you want to say. ALJs base their decisions on information and statements that you and other witnesses, including DCS, provide during the hearing, so you want to make sure you remember to tell the ALJ all relevant information.

Can I try to settle the case without a hearing?

Contact DCS at 1-800-442-KIDS if you would like to try to work out an agreement before the hearing. All parties and DCS must agree before a case can settle. If you, the other party, and the DCS representative cannot agree, you still have the right to a hearing. OAH will send you a Notice of Hearing that has the DCS representative's telephone number. If you wish to contact DCS before you receive the Notice of Hearing, call the DCS representative noted on your pre-hearing letter.

What are my rights in a child support hearing?

- You do not have a right to free legal help.
- You can represent yourself or use anyone such as an attorney, friend or relative.
- You can present evidence and object to evidence presented by anyone else.
- You can ask the ALJ for a continuance (delay) of the hearing if you have a good reason.
- You can look at and have copies of records related to your case before, during, or after the hearing.
- You can have photocopies of DCS records important to the hearing at no cost to you if you cannot afford to pay for them.
- You can ask the DCS representative for the evidence DCS intends to use before the hearing.
- You can ask the ALJ to let you send in more evidence after the hearing.
- You can ask witnesses questions, object to witnesses, and present evidence to show the testimony of any witness is not true.
- You can have witnesses appear and ask the ALJ to make witnesses take part in the hearing. You can also ask the ALJ to have witnesses send necessary papers to the hearing. DCS has the right to present DCS witnesses and to question yours.
- You can ask the ALJ to contact the witnesses one at a time. This can help protect privacy or keep one witness from influencing another.
- You can look at and have copies of policies, rules, guidelines, and other DCS publications related to your hearing.
- You can ask to change a telephone hearing to an “in-person” hearing, if you have a good reason. An “in-person” hearing means that you will be in a room at OAH or DCS but the ALJ and other parties may be in person or by telephone.

How will the ALJs decide?

If the reason for your hearing is to establish or modify a child support order, the ALJ makes decisions using the Washington State Child Support Schedule under Chapter 26.19 RCW.

When there is an existing Superior Court order, the ALJ follows the directions in the order.

What happens after the hearing?

The ALJ does not make the final decision at the hearing. The ALJ mails the order to you after the hearing. It is your responsibility to make sure that OAH has your correct mailing address. OAH sends the order to your last known address. If you do not receive a copy of the order, call OAH.

Your hearing rights are affected even if you do not receive a copy of the order.

What if I don't like the ALJ's decision?

The order will contain information about your appeal rights. Once the ALJ issues a final order, you may petition a Superior Court to have a judge review the order. The time limits for making an appeal must be followed or your appeal will be denied.

Requests for correction or reconsideration must be sent to the ALJ at OAH.

What if I have more questions?

If you have questions that are not answered in this brochure, you should:

1. Call the Division of Child Support (DCS) at [1-800-442-KIDS](tel:1-800-442-KIDS);
2. Call the Office of Administrative Hearings (OAH); or
3. Contact an attorney

What if I don't speak English well?

If you or a witness needs a language translator or interpreter, OAH will provide an interpreter free of charge. You should ask for an interpreter at least a week before the hearing. A friend or relative may not be your language interpreter.

What if I need special accommodations?

DSHS and OAH offices are wheelchair accessible. Ask for help at least one week before the hearing if you or a witness needs special help like:

- A sign language interpreter or
- Materials in Braille or other format

Washington State provides free help if you or a witness needs a translator or interpreter, or if you need help because of a disability.

Please fill out and mail the attached Office of Administrative Hearings help request form. For your convenience we printed the address to OAH on the back of the form.

Request for Translator, Interpreter, or Special Help

The state provides free help if you or a witness need a translator or interpreter or need help because of a disability.

I need to receive documents in (language)

and/or need help from an interpreter.

I need special help (tell us what you need)

Name

Phone

DCS Case Number

PLACE
STAMP
HERE



OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 42488
OLYMPIA WA 98504-2488



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