

Washington State's
Child Support Program



**Child
Support
Hearing
Rights**



Washington State
Department of Social
& Health Services

Transforming lives

What is an administrative hearing?

Administrative hearings are informal and “user-friendly” legal proceedings. They are usually held by telephone. A decision maker called an Administrative Law Judge (ALJ) holds the administrative hearing. Hearings are held by the Office of Administrative Hearings (OAH), which is an independent state agency. OAH is not a part of the Department of Social and Health Services (DSHS) or the Division of Child Support (DCS); OAH does not have access to DCS records unless they are provided for the hearing.

What happens at a child support hearing?

You may appear for the hearing by telephone. DCS testifies first and explains to the ALJ what kind of notice was served and why a hearing is needed. You and the other party then tell your side of the story to the ALJ. The ALJ may ask questions of any party (including DCS) and allows the parties to ask their own questions. A typical hearing takes one to two hours. The ALJ does not make a decision at the hearing, but will issue a written decision using the case facts presented at hearing, as well as laws related to your situation.

Do I need an attorney?

Most people represent themselves at the hearing (this is called “appearing pro se”). 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. If you think you need an attorney to represent you at the hearing, you should start looking for one as soon as possible.

Where can I find the laws relating to child support and hearings?

The laws and rules of Washington State are available at public and law libraries. You can also find them on the Internet at:

DCS web page at:

www.childsupportonline.wa.gov

Revised Code of Washington (RCW) at:

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

(go to Chapters 26.23, 34.05, 74.20 and 74.20A RCW)

Washington Administrative Code (WAC) at:

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

(Go to Chapter 388-14A WAC for DCS rules and Chapter 388-02 WAC for DSHS hearing rules)

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**
206-682-9552
<http://legalvoice.org>
- **Office of Administrative Hearings**
360-407-2700
www.oah.wa.gov
- **Washington Law Help**
www.washingtonlawhelp.org

Do I have to have a hearing?

DCS attempts to settle cases without hearings. You may be able to reach an agreement with the DCS representative and the other party. Any settlement must be agreed to by DCS and all other parties.

What does the DCS representative do?

The DCS representative is an attorney who represents the interests of DCS. This person, called a claims officer, does not represent you, and does not represent the other party. DCS may have interests that are different than your interests or those of the other party. The DCS representative will explain to the ALJ during the hearing what actions DCS took and why. The DCS representative can give you information about how a hearing works, and about the general rules and policies for hearings, but cannot give you legal advice.

How will I find out when my hearing will be?

OAH sends you a Notice of Hearing that gives the date and time of the hearing. You must keep both OAH and DCS advised of your current mailing address or you may miss important notices. 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. If you have not been called by the time of the hearing, call OAH at the number provided on the Notice of Hearing.

How do I participate in my hearing?

You may participate by phone from any location you want. Be sure your phone is free at the time of the scheduled hearing. If your phone is busy, or if DCS or the ALJ is unable to reach you, the hearing may be held without you and you will not be able to participate. 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 as soon as possible, or at least one week before the hearing to request a continuance. Even if DCS and all parties agree that the hearing should be postponed, the ALJ is the one who decides if the hearing will be rescheduled. The phone numbers for OAH and DCS are on the Notice of Hearing. In addition, you should call OAH or DCS if a last-minute emergency causes you to miss the hearing.

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

If you do not appear at the hearing, the ALJ will not know what you think is important. The ALJ decides your child support issues using the testimony and evidence (facts and documents) presented at the hearing. The child support may be set at an amount higher or lower than proposed in the notice, or for a different time period, and your request for changes may be denied. You may not be able to get the order changed if you don't participate in the hearing.

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

Notify DCS or OAH right away if you have any concerns about your safety during the hearing. If you receive TANF, you can contact the Community Services Office (CSO) to request "good cause not to cooperate." Tell DCS if you are asking for good cause because we may need to ask for a continuance of the hearing to wait for the good cause decision. Even if you don't claim good cause, tell DCS or OAH that there is a protection or restraining order in place between you and the other party that prevents contact.

How do I prepare for the hearing?

You can discuss your case with the DCS representative before the date of the hearing. This allows you to find out exactly what the issues are. You should also use this time to decide if you want to consult an attorney. Remember that DCS can provide information but cannot provide legal advice.

If you have any documents that you want the ALJ and other parties to have during the hearing, you should send or fax copies to the ALJ, DCS and any other parties at least one week before the hearing date.

NOTE: Different types of hearings require different documents.

Examples of documents you may provide include:

- 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 written declarations 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 in documents or records.

It is important that you have any documents from DCS or the other party with you during the hearing so you can refer to them. You may want to 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 will want to remember to tell the ALJ all relevant information. If you tell something important to DCS prior to the hearing, make sure that you tell it to the ALJ as well.

Can I try to settle the case without a hearing?

DCS is always willing to try to settle a case. However, all parties to the case and DCS must agree in order to avoid a hearing. If you, the other party, and the DCS representative cannot agree, you still have the right to a hearing. You may contact the DCS attorney at their direct telephone number, which is in the pre-hearing letter. OAH will send you a Notice of Hearing that also has the DCS representative's direct telephone number.

What are my rights in a child support hearing?

- You have the right to an attorney, but you do not have a right to free legal help.
- You can represent yourself.
- You can be represented by anyone you choose, like 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 ask DCS for photo copies of DCS records you think are important for the hearing.
- You can ask the DCS representative to give you the records DCS plans to use.
- You can ask the ALJ to give you time after the hearing to send in more documents.
- You can ask witnesses questions, make objections, and present information 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 and the other party also have the right to present 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 other parties usually have the option to participate in person or by telephone.

How will the ALJ decide how much child support should be paid?

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 court order for child support, the ALJ follows the directions in the order.

What happens after the hearing?

The ALJ does not make a decision at the hearing. The ALJ mails the final order to all parties after the hearing. OAH sends the order to your last known address, so you must make sure that OAH has your current mailing address. If you do not receive a copy of the order within a few weeks, call OAH.

Your hearing and appeal 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 send a request to the ALJ to reconsider or correct the decision, or you may appeal to Superior Court to have a judge review the order. If you do not follow the time limits in the ALJ's order, your appeal may be denied.

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;
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 translator or interpreter, tell OAH or DCS that you need an interpreter as soon as possible. If you don't do this before the hearing, the ALJ may have to postpone the hearing. OAH will provide an interpreter for you for free. NOTE: A friend or relative may not act as your interpreter at the hearing or during settlement discussions.

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

You will get 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 I need help from a translator to read the documents in (language)

I need to have an interpreter who speaks

at the hearing.

I need another kind of special help (tell us what you need)

Name

Printed

Signed

Phone

DCS Case Number

PLACE
STAMP
HERE



OFFICE OF ADMINISTRATIVE HEARINGS
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