



STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
One Union Square • 600 University Street • Suite 1500 • Seattle, Washington 98101
(206) 389-3400 • (800) 845-8830 • FAX (206) 587-5135 • www.oah.wa.gov

December 2, 2016

Parent
12345 67th Street
Seattle, WA 98999

Jane Doe, Director of Special Education
Washington State School District
67890 123rd Ave
Seattle, WA 98999

In re: Washington State School District
OSPI Cause No. 2016-SE-1234
OAH Docket No. 12-2016-OSPI-12345

Dear Parties:

The Office of Administrative Hearings has received a request for due process hearing (Complaint) in the above-referenced matter. As a result, an administrative law judge (ALJ) has been assigned. Also, **a prehearing telephone conference and a hearing have been scheduled.** Those dates are: December 30, 2016 and January 13, 2017. Please read the Scheduling Notice for more information about the hearing process.

Enclosed is the Scheduling Notice and a copy of the Complaint filed in the above-referenced matter. **Also enclosed:**

- (1) the Sound Options mediation pamphlet explaining the mediation project funded by OSPI for special education disputes;
- (2) a copy of the low cost legal/advocacy referral list; and,
- (3) the Office of Administrative Hearings' Notice of Nondiscrimination and Equal Access policy.

If either party wishes to postpone or otherwise reschedule the prehearing conference or the hearing, instructions for making such a request are found in the Scheduling Notice. Please direct all further communication to the assigned ALJ.

General information about the hearing process can be found on the Office of Administrative Hearings web site at www.oah.wa.gov.

Sincerely,

John Smith

John Smith
Administrative Law Judge

cc: Administrative Resource Services, OSPI
Matthew D. Wacker, Senior ALJ, OAH/OSPI Caseload Coordinator

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

IN THE MATTER OF

OSPI CAUSE NO. 2016-SE-1234

OAH DOCKET NO. 12-2016-OSPI-12345

WASHINGTON STATE SCHOOL DISTRICT

SCHEDULING NOTICE

The Parent of the Student whose education is at issue¹ filed a due process hearing request (hereinafter Complaint) with the Office of Superintendent of Public Instruction (OSPI) requesting a due process hearing pursuant to the Individuals with Disabilities Education Act (hereinafter IDEA). The Complaint was received December 1, 2016 and forwarded to the Office of Administrative Hearings (OAH). Administrative Law Judge (ALJ) John Smith has been assigned as the designee of the Superintendent of Public Instruction. Washington Administrative Code (WAC) 392-172A-05095.

THIS NOTICE WILL CONTROL THE COURSE OF THE PROCEEDING.
PLEASE READ CAREFULLY.

IT IS HEREBY ORDERED that the parties shall proceed in the following manner:

FILING OF PAPERS AND COMMUNICATION WITH THE ALJ: USE OF E-MAIL AND FAX

Filing papers with the ALJ. Filing of papers by e-mail is not permitted. WAC 10-08-110. Filing of papers by fax is permitted. The original of any papers filed by fax must also be mailed within twenty-four (24) hours of the time that the fax was sent. Filing by fax is completed when a complete legible copy of the papers is reproduced on the OAH fax machine. Fax filings must be received by 5:00 p.m. on the date they are due in order to be timely. The party attempting to file papers by fax bears the risk that the papers will not be timely received or legibly printed, regardless of the cause.

Exchanging papers with other parties. All papers filed with the ALJ must be exchanged with all counsel and representatives of record, and all unrepresented parties. Parties may agree to exchange papers *among themselves* by e-mail.

Use of e-mail to communicate with the ALJ. Parties may not communicate with the ALJ by e-mail. Parties may use e-mail to communicate with the ALJ's assistant about scheduling matters, and generally for all purposes other than the filing of papers. Any e-mail sent to the ALJ's assistant must be sent to all counsel and representatives of record, and all unrepresented parties. However, if a party wishes something to be seen by the ALJ on short notice, the party must send a fax rather than (or in addition to) an e-mail.

¹ To ensure confidentiality, names of parents and students are not used.

DECEMBER 11, 2016 (10 DAYS FROM FILING): RESPONSE TO COMPLAINT: If the Washington State School District (hereafter the School District) has not sent prior written notice to the Parent regarding the subject matter of the Complaint, the School District shall, on or before this date, send a written response to the Parent and the ALJ that shall include:

- (1) an explanation of why the School District proposed or refused to take the action raised in the complaint;
- (2) a description of other options that the individualized education program (IEP) team considered and the reasons why those options were rejected;
- (3) a description of each evaluation procedure, assessment, record, or report the School District used as a basis for the proposed or refused action; and
- (4) a description of the factors that are relevant to the School District's proposal or refusal.

If prior written notice has been issued by the School District but does not address all of the subject matter in the Complaint, the School District shall send a response that specifically addresses the issues raised in the Complaint to the Parent and the ALJ on or before this date. 20 United States Code (USC) §1415 (c)(2)(B).

DECEMBER 16, 2016 (15 DAYS FROM FILING): RESOLUTION MEETING: On or before this date, the parties shall conduct a resolution meeting. The Parent and relevant member or members of the IEP team who have specific knowledge of the facts identified in the Complaint shall attend this meeting. A representative of the School District who has full decision-making authority from the School District shall attend this meeting. 20 USC §1415(f).

Upon receipt of this Scheduling Notice, the School District representative shall contact the Parent and the parties shall mutually agree on the date and time for the resolution meeting. The School District shall immediately forward a copy of the notice scheduling the resolution meeting to the Parent and the assigned ALJ.

The School District shall not be allowed to have its attorney present at the resolution meeting unless the Parent is accompanied by an attorney. 20 USC §1415(f).

At the resolution meeting, the Parent shall discuss the Complaint and the facts that form the basis of the Complaint, and the School District shall be provided with the opportunity to resolve the Complaint.

If resolution is reached at the meeting on all issues, the parties shall execute a legally binding written settlement agreement that is signed by both the Parent and the representative of the School District who has authority to bind the School District. The parties shall have three business days after executing the settlement agreement to void the agreement. Either party desiring to void the agreement shall, within the three business day time period, notify the other party and the ALJ in writing of its voiding of the agreement. If the settlement agreement is not voided within the three business days time period, the Complaint will be dismissed by the ALJ.

The parties shall provide notice to the ALJ within seven business days of the settlement of the dispute.

DECEMBER 16, 2016 (15 DAYS FROM FILING): WAIVER: In lieu of conducting a resolution meeting or proceeding to mediation, the parties may mutually agree in writing to waive the resolution meeting. The parties shall notify the ALJ by this date if the parties have agreed to waive the resolution meeting and file a written copy of the waiver signed by all parties with the ALJ. 20 USC §1415 (f).

DECEMBER 16, 2016 (15 DAYS FROM FILING): SUFFICIENCY OF COMPLAINT: The School District shall have until this date to notify the ALJ and the Parent in writing that it believes the Complaint does not meet the requirements of the IDEA. 20 USC §1415 (c).

In addition to sending the notice to the assigned ALJ and the Parent, the School District shall send a copy of the notice of insufficiency to Matthew D. Wacker, Senior ALJ, OAH/OSPI Caseload Coordinator, 600 University Street, Suite 1500, Seattle, WA 98101-3126.

DECEMBER 31, 2016 (30 DAYS FROM FILING): The parties shall notify the ALJ in writing by this date whether they have been able to resolve the complaint.

DECEMBER 30, 2016 (APPROX. 3-5 WEEKS FROM FILING): PREHEARING CONFERENCE: A telephone prehearing conference shall be conducted pursuant to WAC 10-08-130 as follows:

Date: **December 30, 2016**
Time: **9:00 a.m.**
Place: **By telephone**

To register your appearance you must call ALJ Smith no later than ten minutes prior to the scheduled time at (206) 389-3400 or (800) 845-8830. The receptionist will take your phone number and the ALJ will return your call to initiate the prehearing conference.

It is best to use a land line. If you must use a cell phone, you must be stationary (not driving), have good reception and have adequate battery for a lengthy call.

The date and time of the prehearing conference may be changed at the request of a party. If you wish to request a change, please contact the opposing party, explain your reason and identify the specific change (length of time or proposed new date) and ask for their agreement, then contact the assigned ALJ with the agreement. If the other party does not agree to the requested change, contact the assigned ALJ with an explanation of your reason and the specific change requested.

The prehearing conference shall be audio recorded.

The purpose of the prehearing conference is to determine:

- (a) Identification and simplification of the issues in dispute;
- (b) Identification and scheduling of any prehearing motions;
- (c) The necessity or desirability of amendments to the pleadings;

- (d) The possibility of obtaining stipulations of fact and/or the admissibility of documents to avoid unnecessary proof;
- (e) Limitations on the number and consolidation of witnesses;
- (f) The exchange of exhibits and the names of potential witnesses;
- (g) The introduction of direct testimony of non-primary witnesses by declaration;
- (h) The date, time and place for the hearing; and
- (i) Such other matters as may aid in the disposition or settlement of the proceedings.

NOTICE OF POTENTIAL DEFAULT

A party who fails to attend or participate in a hearing or prehearing conference, may be held in default in accordance with Revised Code of Washington (RCW) 34.05.434 and -.440. If the party failing to appear is the Parent, the matter may be dismissed. If the party failing to appear is the school district, the matter may proceed without the school district.

DECEMBER 31, 2016 (30 DAYS FROM FILING): MEDIATION: In lieu of conducting a resolution meeting, the parties may mutually agree to proceed with mediation. If the parties mutually agree to proceed to mediation, the mediation shall be scheduled and conducted on or before this date. Additionally, the parties shall notify the ALJ in the event they elect to proceed to mediation. Mediation is available through Sound Options Mediation Service at 800-692-2540 or 206-842-2298 at no cost to the parties. Please see the enclosed Sound Options Mediation pamphlet. This timeline does not preclude the parties from proceeding to mediation at any time prior to the hearing. 20 USC §1415 (e).

JANUARY 6, 2017 (5 BUSINESS DAYS PRIOR TO 1ST DAY OF HEARING): **By 5:00 p.m. on this date**, a list of witnesses who may testify at the hearing and any documentary evidence to be offered at the hearing must be disclosed to the opposing party and the ALJ. Additionally, at least five business days prior to the hearing, each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

DATE, TIME, AND LOCATION OF HEARING

The hearing shall be held as follows:

Date: **January 13, 2017**
Time: **9:00 a.m.**
Location: To be determined.

Firearms and other dangerous weapons are prohibited at hearings and in all Office of Administrative Hearings offices. WAC 10-20-010.

This hearing will be closed to the public unless the Parent specifically requests that it be open. The Student may be present if the Parent so desires.

STATUTES AND RULES INVOLVED

The primary statutes and rules involved are cited below. They can be found at (<http://apps.leg.wa.gov/RCW/> and <http://apps.leg.wa.gov/WAC/>). Parties unable to access the laws from the Internet should contact the OAH/OSPI Caseload Coordinator at 1-206-389-3400 or 1-800-845-8830 to request a paper copy be mailed to them. Please take time to review these rights, protections and procedures.

20 USC §1400 <i>et seq.</i>	Individuals with Disabilities Education Act (IDEA)
34 CFR § 300 <i>et seq.</i>	Assistance to States for Education of Children with Disabilities
Title 28A.155 RCW	Special Education
Title 34.05 RCW	Washington State's Administrative Procedure Act
Title 34.12 RCW	Office of Administrative Hearings
Ch. 10-08 WAC	Model Rules of Procedure
Ch. 392-172A WAC	Rules for the Provision of Special Education, specifically;
WAC 392-172A-05005	Independent educational evaluation.
WAC 392-172A-05080	Right to a due process hearing.
WAC 392-172A-05085	Due process hearing request filing and response.
WAC 392-172A-05095	Administrative law judges.
WAC 392-172A-05100	Hearing rights.
WAC 392-172A-05105	Hearing decisions.
WAC 392-172A-05110	Timelines and convenience of hearings.
WAC 392-172A-05120	Attorneys' fees.
WAC 392-172A-05125	Student's status during proceedings

DECISION DUE DATE

The parties have the right to obtain a written decision in this matter within forty-five (45) calendar days after the expiration of the thirty (30) calendar day resolution period, or the adjusted time periods described in WAC 392-172A-05090(3). WAC 392-172A-05110(1); 34 CFR §300.515(a), .510(c). The hearing date assigned herein has been specifically selected in order to meet this deadline. The current due date for a written decision in this matter is **FEBRUARY 14, 2017**.

Either party may request a continuance of the hearing for good cause. If a motion for continuance is requested, it must be in writing and must contain a request to extend the decision due date to a specified date or a specified period of time.

Signed at Seattle, Washington on December 2, 2016.

John Smith

JOHN SMITH
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF SERVICE

I certify that I mailed a copy of this order to the within-named interested parties at their respective addresses postage prepaid on the date stated herein.

Parent
12345 67th Street
Seattle, WA 98999

Jane Doe, Director of Special Education
Washington State School District
67890 123rd Ave
Seattle, WA 98999

cc: Administrative Resource Services, OSPI
Matthew D. Wacker, Senior ALJ, OAH/OSPI Caseload Coordinator

SUMMARY OF SCHEDULING DATES

DECEMBER 11, 2016 (10 days from filing): Response to Complaint.

DECEMBER 16, 2016 (15 days from filing): Resolution meeting.

DECEMBER 16, 2016 (15 days from filing): Waiver.

DECEMBER 16, 2016 (15 days from filing): Sufficiency of Complaint.

DECEMBER 31, 2016 (30 days from filing): Mediation.

DECEMBER 31, 2016 (30 days from filing): The parties shall notify the ALJ in writing by this date whether they have been able to resolve the Complaint.

DECEMBER 30, 2016 (approx. 3-5 weeks from filing): Prehearing conference.

JANUARY 6, 2017 (5 business days prior to 1st day of hearing): **By 5:00 p.m. on this date**, a list of witnesses who may testify at the hearing and any documentary evidence to be offered at the hearing must be disclosed to the opposing party and the ALJ.

JANUARY 13, 2017: Date of hearing.