

Role & Responsibilities of a Suitable Representative

The Office of Administrative Hearings (OAH) wants parties with disabilities to be able to access our facilities and services. OAH complies with the federal Americans with Disabilities Act (ADA). For example, OAH modifies standard processes to accommodate access to hearings by parties. The ADA coordinator at OAH applies WAC 10-24-010 to decide if it is necessary to appoint a representative in order to provide meaningful access to an unrepresented party in a hearing before OAH.

A. Defined

A “suitable representative” is an individual who is qualified under the rule to provide the assistance needed to enable an otherwise unrepresented party with a disability to meaningfully participate in the adjudicative proceeding. WAC 10-24-010(2)(b).

B. Qualifications

The ADA coordinator at OAH identifies an individual to be appointed as a “suitable representative” after considering the:

- Needs of the party identified in the assessment;
- Party’s preferences;
- Knowledge, skills and abilities of the individual being considered, including
 - Knowledge of or the ability to attain knowledge of the procedural rules;
 - Knowledge or the ability to attain knowledge of the substance at issue;
 - Experience and training in advocating for people with disabilities; and
 - Availability to meet the timelines and duration of the particular proceeding.

A candidate interested in being appointed as a suitable representative will provide OAH with a written statement describing their qualifications. The candidate may also share their preferences for case types, travel, and any periods of time they might not be available to serve.

C. Pre-appointment process

Step 1. The ADA coordinator will describe to the candidate the party’s needs, the case type, case status, time or duration expectations, whether the hearing is by telephone or in-person, and other relevant information. The ADA coordinator will not reveal any personally identifying information about the party. If the candidate is interested in being appointed, the candidate will authorize the ADA coordinator to identify the candidate to the party with a disability, including the candidate’s qualifications.

Step 2. The ADA coordinator will discuss the candidate's availability with the party with a disability. The ADA coordinator will ask if the party is willing to accept the candidate as their representative. The party will show acceptance in writing or other form consistent with the party's disability. The party will authorize disclosure of the party's personally identifying information to the candidate. The ADA coordinator will present the acceptance to the candidate. The candidate will show acceptance of the appointment in writing.

- The ADA coordinator will facilitate introductions between the party and the suitable representative candidate.
- If a party requests the opportunity to converse with or ask questions of the candidate prior to acceptance, the ADA coordinator will make the necessary arrangements.

Step 3. The Chief ALJ will sign an appointment letter. A copy will be provided to the party with a disability.

D. Post-appointment process

The ADA coordinator will arrange for the appointed suitable representative to receive a copy of all materials in the case record, including all notices or orders issued by OAH, documents submitted to OAH, and audio recordings. The suitable representative will file a notice of appearance under WAC 10-08-083 or other applicable rule or law to inform all parties and representatives of record of the suitable representative's name, address, and telephone number.

Post-appointment, the suitable representative will not contact the ADA coordinator with procedural or legal questions about the case.

The suitable representative will communicate with other parties and OAH about the case using the standard processes. The OAH contact information is in the notice of hearing or you can call (360) 407-2700 or (800) 583-8271.

The suitable representative may continue to contact the ADA coordinator about the client's accommodation needs. For example, post-appointment contacts may include when the suitable representatives wants to

- Request additional accommodations needed by the client
- Ask questions about how OAH is implementing approved accommodations
- Inform the ADA coordinator if the appointment is ending before the hearing process is completed

OAH expects to update these materials after we develop a network of individuals available as suitable representatives. Currently, there is not a process for mentoring within the network.

E. Termination of appointment

The individual's appointment ends when the time expires to file a petition for review, unless earlier terminated by the party or the suitable representative. The suitable representative will file a notice of withdrawal under WAC 10-08-083 or other applicable rule or law if the appointment is terminated prior to the deadline for the petition for review.

F. Responsibilities of a suitable representative

At all times, even after termination of the appointment, the suitable representative is responsible to maintain the privacy and confidentiality of the party. Upon appointment, the suitable representative will promptly:

1. **Communicate with the party** about the case, what is at stake in the dispute, and the party's desired outcome or remedy;
2. **Review the case record provided by OAH** in a professional and timely manner, making all reasonable efforts to prepare for hearing without delay to avoid or minimize continuances;
3. **Gather information** necessary to resolve the dispute, identify and prepare witnesses, or present exhibits at hearing;
4. **Discuss the potential for settlement** with the party, and when appropriate, participate in mediation or negotiate a settlement agreement;
5. **File and respond to motions;**
6. **Prepare for hearing**, including to:
 - a. Mark and file exhibits;
 - b. Prepare the party and other witnesses for testimony;
 - c. Prepare questions for cross examination;
 - d. Prepare brief oral opening and closing statements.
7. **Appear and participate** in motion conferences, prehearing conferences, and the hearing;
8. **File post-hearing documents** as requested or allowed;
9. **Review the ALJ's decision** with the party;

10. When necessary, **discuss with the party next steps in the appeal** including reconsideration and petition for review; and
11. **Prepare and file a request for reconsideration or petition for review.**
12. **Promptly notify the ADA coordinator and the party** about:
 - a. Any adverse action related to the individual's certifications or licenses;
 - b. A decision to withdraw as the suitable representative.

The suitable representative shall **participate in training**. The Chief ALJ has established uniform qualification training for persons selected as suitable representatives under the Model Rules. The individual is responsible to participate and complete the training. The estimated time commitment for training is approximately 1 hour for the required materials (if one has equivalent experience) and approximately 4.5 hours for the full course.

In addition, the suitable representative shall **participate in data collection and program review**. After the appointment terminates, OAH may ask the suitable representative for feedback about how to improve the process. The suitable representative is encouraged to provide suggestions to improve implementation of WAC 10-24-010.