



Washington State Office of Civil Legal Aid

1206 Quince St. SE
Olympia, WA 98504
MS 41183
360-704-4135

James A. Bamberger, Director
jim.bamberger@ocla.wa.gov

May 26, 2017

Mr. Ed Pesik
Deputy Chief Administrative Law Judge
Washington State Office of Administrative Hearings
PO Box 42488
Olympia, WA 98504-2488

Delivered via email to: Ed.pesik@oah.wa.gov

Re: Comments on Representational Accommodation Proposed Rule - WSR 17-09-084

Dear Deputy Chief ALJ Pesik:

I write in my role as Director of the Office of Civil Legal Aid (OCLA). OCLA is an independent judicial branch agency the primary purpose of which is to contract for and oversee the effective delivery of civil legal assistance to low income people in Washington State.

OCLA strongly supports OAH's proposed amendment to WAC 10-08-055 providing for Suitable Representation for people with disabilities. This proposed rule will help ensure meaningful participation in the administrative justice system by people with disabilities that render them unable to effectively participate in adjudicative administrative proceedings. In so doing, it will ensure full and fair access to justice.

People with disabilities are disproportionately poorer than the population as a whole and more likely to receive public benefits to support their health, independence, and dignity. When an agency reduces, denies, or terminates a person's public benefit, the Office of Administrative Hearings is generally the only judicial system available to challenge that agency action. However, when the appellant has a chronic mental illness, traumatic brain injury, severe dementia, extreme anxiety, or another disability that prevents him or her from presenting evidence or putting on a case, those benefits can be unjustly lost due solely to the lack of a suitable representational accommodation.

The proposed rule remedies this injustice. It provides for an individualized assessment of the appellant's disability and need for a representational accommodation, sets up standards for the selection of a suitable representative if needed, provides for training of OAH staff and suitable representatives, and requires data collection to evaluate the effectiveness of the accommodation system. It guarantees that people with disabilities that have their cases heard in the administrative justice system will have the same protections afforded them in the judicial branch

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courts under GR 33. It ensures that effective, economical and responsive civil legal services are provided to low income and disabled residents of Washington State who are unable to represent themselves.

As you know, OCLA has offered to work with OAH on implementing any representational accommodation program. This proposed rule provides the proper framework to guide our joint agency efforts.

Thank you for the opportunity to comment on this important new rule. The Office of Civil Legal Aid encourages its adoption.

Sincerely,

OFFICE OF CIVIL LEGAL AID

A handwritten signature in black ink that reads "James A. Bamberger". The signature is written in a cursive, flowing style.

James A. Bamberger

Director

C: Hon. Lorraine Lee, Chief Administrative Law Judge