

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Washington State School District

Docket No. 12-2016-OSPI-12345

SCHEDULING NOTICE

Agency: Office of Superintendent of
Public Instruction
Program: Special Education
Cause No. 2016-SE-1234

The Parent of the Student whose education is at issue¹ filed a due process hearing request (Complaint) with the Office of Administrative Hearings (OAH) pursuant to the Individuals with Disabilities Education Act (IDEA). The Complaint was received December 12, 2016. 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 PROCEEDINGS.
PLEASE READ CAREFULLY.**

PREHEARING TELEPHONE CONFERENCE

1. A telephone prehearing conference is scheduled:

DATE: **January 12, 2017**
TIME: **9:00 a.m.**
PLACE: **By Telephone Conference Call**

2. **At the time of your prehearing conference, please call 1-866-527-0393 (toll free). When prompted, enter 123 456 789, followed by the # key.** You are not the Meeting Organizer so do NOT press the * key if asked to do so. If you have problems connecting to the call, or if the ALJ has not joined the meeting within 10 minutes after the scheduled start time, please immediately contact the Office of Administrative Hearings (OAH) Customer Service Center at (800) 845-8830 or email oah.ospi@oah.wa.gov.

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

3. Parties should allow two (2) hours for the prehearing conference. The prehearing conference will be audio recorded. It is best to use a landline. If you must use a cell phone, you must be stationary (not driving), have good reception, and have adequate battery for a lengthy call.

4. To request a change of the date and time of the prehearing conference, please contact the opposing party first. If the opposing party agrees to the requested change, notify the assigned ALJ of the agreement. If the opposing party does not agree to the requested change, contact the assigned ALJ with the specific change requested and the reason for the request.

5. The purpose of the prehearing conference is to:

- a. determine the status of the request for hearing.
- b. confirm the date and time for the hearing.
- c. identify the issues to be decided at the hearing.
- d. discuss the hearing process and how to prepare for the hearing.
- e. answer any questions the parties may have.
- f. discuss any other matters raised by the parties.

DUE PROCESS HEARING

6. The ALJ will schedule the due process hearing at the prehearing conference.

7. Firearms and other dangerous weapons are prohibited at hearings and in all OAH offices. WAC 10-20-010.

8. The hearing will be closed to the public unless there is a request to open it to the public. Upon request, the Student may be present at the hearing.

NOTICE OF POTENTIAL DEFAULT

9. A party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding, including a prehearing conference, may be held in default in accordance with RCW 34.05.434 and -440. If the party who filed the Complaint fails to appear, the matter may be dismissed. If any other party fails to appear, the matter may proceed without that party.

STAY-PUT

10. The Student's placement during the pendency of these proceeding is the educational program and placement in effect at the time the Complaint was filed

unless the parties agree to a different placement. WAC 392-172A-05125. Either party may raise a dispute regarding the Student's stay-put placement.

OTHER IMPORTANT DATES

11. December 22, 2016 (10 DAYS FROM FILING): RESPONSE TO COMPLAINT, WAC 392-172A-05085:

- a. If the Washington State School District (School District) has not sent prior written notice regarding the subject matter of the Complaint, the School District shall, on or before this date, send a written response to the parties and the ALJ that shall include:
 - i. an explanation of why the School District proposed or refused to take the action raised in the Complaint;
 - ii. a description of other options that the individualized education program (IEP) team considered and the reasons why those options were rejected;
 - iii. a description of each evaluation procedure, assessment, record, or report the School District used as a basis for the proposed or refused action; and
 - iv. a description of the factors that are relevant to the School District's proposal or refusal.
- b. If the School District issued prior written notice that 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 parties and the ALJ on or before this date.
- c. The undersigned ALJ may not proceed with the hearing until the School District files its response.

12. December 27, 2016 (15 DAYS FROM FILING): RESOLUTION MEETING, WAC 392-172A-05090:

- a. On or before this date, the parties shall conduct a resolution meeting. The parties and relevant 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 decision-making authority shall attend this meeting.

- b. The School District shall not be allowed to have its attorney present at the resolution meeting unless the party who filed the Complaint is accompanied by an attorney.
- c. At the resolution meeting, the party who filed the Complaint shall discuss the facts that form the basis of the Complaint, and the School District shall have the opportunity to resolve the Complaint.
- d. If the parties reach a resolution on all issues at the resolution meeting, the parties shall execute a legally binding written settlement agreement that is signed by both parties. The parties shall have three business days after executing the settlement agreement to void the agreement. The parties shall provide notice to the ALJ within seven business days of the settlement of the dispute.

13. December 27, 2016 (15 DAYS FROM FILING): WAIVER, WAC 392-172A-05090:

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.

14. December 27, 2016 (15 DAYS FROM FILING): SUFFICIENCY OF COMPLAINT, WAC 392-172A-05085:

The School District shall have until this date to send written notice to the parties and the ALJ that it believes the Complaint does not meet the requirements of the IDEA.

FILING DOCUMENTS WITH THE ALJ

15. Documents may be filed with the ALJ by personal delivery, U.S. mail, commercial parcel delivery, fax, or by uploading them to OAH's online participant portal. WAC 10-08-110. Due to the impacts of COVID-19, parties may currently file documents by *secure* email. Documents must be attached to the secure email, not in the body of the email.

16. Documents must be received by 5:00 p.m. on the date they are due to be considered timely. Documents received after 5:00 p.m. will be considered received on the following business day.

Filing by Secure Email

To send documents by secure email, reply to a secure email received from OAH and attach your documents. If you have not received a secure email from OAH, write to us at oah.ospi@oah.wa.gov to request that we send you a secure email to which you can respond. Do not send your documents until you have received the secure email.

Filing via the OAH Online Participant Portal

To file via the OAH online participant portal, follow the instructions and use the participant identifier code on the address sheet you received with this notice. For additional instructions, visit www.oah.wa.gov. If you need your code, contact us at oah.ospi@oah.wa.gov. Filing via the portal is perfected when a complete, legible copy is successfully uploaded. OAH staff will review the filing within 24 hours to determine if it will be accepted. **You will not receive notice if the filing is rejected. You will need to log back into the portal to confirm it has been accepted.** The filing party bears the risk that the documents will not be timely or legibly received. You can also use the portal to view the documents in your case and see upcoming hearing dates.

Filing by Fax

Filing by fax is perfected when a complete, legible copy is received by OAH. Documents filed by fax must have a cover page identifying the case to which the document relates and indicating the total number of pages included. The filing party bears the risk that the document will not be timely or legibly received.

PROVIDING DOCUMENTS TO OTHER PARTIES

17. All documents filed with the ALJ must be provided to the opposing party. Parties may agree to exchange papers with each other by e-mail. Service to the opposing party by filing via the OAH online participant portal is only permitted if expressly agreed to by the recipient.

ACCESS TO RECORDS AND DISCOVERY

18. The parties are authorized to pursue formal and informal discovery without involving the ALJ. If a dispute arises, either party may file a written motion seeking the ALJ's involvement. *The ALJ will not become involved unless the parties have met and conferred in good faith in an effort to resolve the dispute.* The motion must include the following information:

- a. What information you want;
- b. Why the information is necessary;

- c. What you have done to attempt to obtain the information; and
- d. What you want the ALJ to order.

COMMUNICATION WITH THE ALJ

19. Parties may not communicate with the ALJ by e-mail but may communicate with the legal assistants by email at oah.ospi@oah.wa.gov. Any e-mail sent to this address must also be sent to the opposing party.

MEDIATION

20. OSPI offers parties in special education disputes voluntary, confidential, and free mediation services through the Sound Options program. This is non-binding mediation, and the parties are not required to reach a settlement if they choose to participate. Mediators have training in state and federal laws and regulations related to the education of students with disabilities and collaborative problem solving. For more information, please refer to the attached Sound Options pamphlet.

STATUTES AND RULES INVOLVED

21. 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 email oah.ospi@oah.wa.gov or call 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
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

22. 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). The current due date for a written decision in this matter is February 25, 2017.

SERVED on the date of mailing.

/s/

John Smith
Administrative Law Judge
Office of Administrative Hearings

DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the state of Washington that true copies of this document were served upon the following as indicated:

Parent
12345 67th Street
Seattle, WA 98999

via E-mail and
via First Class Mail
parent@gmail.com

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

via E-mail
jan.doe@wssd.edu.org

Dated December 13, 2016, at Olympia, Washington.

/s/

Representative
Office of Administrative Hearings
P.O. Box 42489
Olympia, WA 98504-2489

Enclosures: Due Process Hearing Request
Sound Options Mediation Pamphlet
Legal Referral List
Notice of Nondiscrimination and Equal Access Policy