

ALJ Settlement Conference: Questions and Answers

1. What is an “ALJ Settlement Conference”?

An ALJ is an administrative law judge, or hearing officer. An ALJ settlement conference is an alternative to mediation for parties to a due process hearing. In an ALJ settlement conference, an ALJ facilitates a process between the parties in an attempt to reach settlement of the hearing issues.

2. How and when can an ALJ settlement conference be requested?

The parties to a due process hearing may jointly request an ALJ settlement conference by submitting a written request to the Oregon Department of Education, Office of Learning – Student Services Unit. An ALJ settlement conference request may be submitted at any time after a request for a due process hearing but before the hearing begins. An ALJ settlement conference is available in cases which:

- a. Both parties are represented by counsel;
- b. A hearing date is set; and
- c. The parties have not participated in mediation.

3. Can one party request an ALJ settlement conference?

One party may make a written request for an ALJ settlement conference by simultaneously providing a copy of the request to the other party. If the non-requesting party agrees to participate in the ALJ settlement conference, that party shall so notify Student Services and the requesting party within 10 business days. Student Services then contacts the Office of Administrative Hearings (OAH) to arrange for the settlement ALJ.

4. How does the ALJ settlement conference process affect the due process hearing?

The parties to an ALJ settlement conference may request a postponement of a prehearing conference or of any scheduled hearing date. The ALJ assigned to the full hearing will reschedule such hearing date and other dates, as appropriate, with the cooperation of the parties.

5. How is an ALJ selected for the settlement process?

The OAH will assign a settlement ALJ who will not be the ALJ assigned to the full hearing.

6. How is the ALJ settlement conference scheduled?

The settlement ALJ will schedule a date consistent with the parties' identified available dates as indicated in the request for an ALJ settlement conference, or another date acceptable to the parties.

The settlement ALJ will send a notice to the parties confirming the date, time, and location of the ALJ settlement conference as well as a copy of the advisory opinion procedure. If the ALJ assigned to the full hearing agrees, the settlement conference may be scheduled for the first day of the hearing, unless an earlier date is available for all parties. The settlement conference will be held in the same location as the hearing, unless all parties, including the settlement ALJ, agree to a different location.

7. What are the ALJ settlement conference procedures?

- a. Each party will bring to the settlement conference the person(s) involved in addressing and solving the problem(s), implementing the solution(s), and with the authority to settle the dispute.
- b. At the outset of the settlement conference, the parties will sign the Agreement to Participate in Settlement Conference, acknowledging the confidentiality of the process and forbidding use of information gained from it in a due process hearing. The settlement ALJ also signs the Agreement that s/he will not provide any written notes or information learned during the settlement process to any other person.
- c. The settlement conference is expected to focus on the respective legal merits of the parties' cases, likely outcomes, and risks and costs associated with proceeding to hearing.
- d. The initial settlement conference will be limited to a four-hour session. The settlement ALJ may extend the settlement conference for an additional four hours only if the settlement ALJ determines that the parties' efforts have been productive, the hearing is not scheduled to begin the same day, and further immediate efforts will likely finalize the terms of settlement.
- e. The parties' legal representatives are responsible for writing the settlement agreement. The matter is not considered settled until the parties have signed a settlement agreement.
- f. The settlement ALJ may take notes throughout the settlement conference, keeping track of agreements as they are reached. These notes may help the parties write the settlement agreement but are considered ALJ work product and are not discoverable.

8. What costs are associated with the ALJ settlement conference?

The Oregon Department of Education will pay for the settlement ALJ's time and for any staff time for scheduling and arranging for the settlement conference. The parties are responsible for their own costs associated with the settlement conference, unless otherwise agreed in a settlement agreement.

9. Is the ALJ settlement conference the only alternative dispute resolution option available for parents and districts when a hearing is pending?

No. Student Services offers two other options: mediation and advisory opinions.

10. How is the ALJ settlement conference different from mediation?

In mediation, the mediator uses various strategies to assist the parties in resolving the disagreement. If the parties reach an agreement, the mediator puts the agreement in writing and the parties sign the agreement. In the ALJ settlement conference, an ALJ with mediation training facilitates the resolution of the dispute, and the parties put the agreement in writing.

11. How is the ALJ settlement conference different from the advisory opinion?

Both processes are facilitated by an ALJ, but the procedures and results are different. In the ALJ settlement conference, the settlement ALJ works with the parties to try to reach an agreement. In the advisory opinion process, both parties put on their case within a very short, structured time frame, and the advisory opinion ALJ provides a non-binding informal verbal opinion on the issues. This process may facilitate a settlement between the parties following the advisory opinion.