

What is Adequate Cause?

Before the court will consider a petition for non parental custody or modification of a parenting plan, the court must decide if there is “Adequate Cause” for the petition to continue. *See RCW 26.09.181(1)(B); RCW 26.09.270.* The court looks to see if the moving party has facts that, if true, can support a change to the custody of the children or the existing parenting plan.

The *adequate cause hearing* is used to determine whether the moving party has presented enough evidence to allow the case to continue or whether the petition should be denied. This information has to have been submitted in written declarations or other proof and filed with the court in **advance** of the hearing. At the adequate cause hearing the finding is made based upon the petitions & declarations; additional oral testimony is usually not allowed.

- For petitions of modification of an existing parenting plan,
 - The moving party must submit declarations stating there has been a “substantial change in the circumstances of the child or the non-moving party” and the modification is in the best interest of the child. The declaration needs to include all the relevant facts that support the claims.
- For petitions for non parental custody,
 - The petitioner must submit declarations stating that the child is not in the physical custody of one of his/her parents or that neither parent is a suitable custodian, and include facts that support these claims.
 - For the court to grant custody of a child to a nonparent over the objection of the child’s parent, the nonparent must prove that either the parent is unfit; or circumstances are such that the child’s growth and development would be detrimentally affected by placement with an otherwise fit parent; and the child is not in the physical custody of the parents.
 - It is not enough to show that the child would have a better environment with the nonparent. Also, the fact that a parent may lack parenting skills or has issues to be addressed may not be enough to meet the legal standard of unfitness

The person who filed the petition (‘the moving party’) is required to schedule the adequate cause hearing. The hearing is to be scheduled on the Commissioner’s docket with a note for commissioner Calendar and notice to all parties. The Adequate Cause hearing should be held before the deadline date included in the case schedule that is created at the filing of the petition. There may be good reasons for a delay (such as service issues), but the hearing should still be scheduled before the deadline date. You can request the court to reschedule the hearing to a later date if there is good reason. This will ensure the petition will not be dismissed for failure to meet the deadline.

If an order granting adequate cause is not entered by the deadline date on the case schedule, the petition will be dismissed for failure to obtain a ruling of “adequate cause”. If there is a pending hearing scheduled for after the deadline date, the dismissal will be delayed until after that scheduled hearing date.

If adequate Cause is denied, the petition will be dismissed. If adequate cause is granted, the case continues and the parties are required to remain in compliance with all other case schedule items.