

OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
ADVISORY COMMITTEE

RESPONSES TO RECOMMENDATIONS FROM OCTOBER
2020 COMMITTEE MEETING

AGENDA ITEM #12: REVIEW OF JUNE 2020 RESPONSES TO
RECOMMENDATIONS

June 2020 recommendation: That OAH request verification from districts to ensure that they actually have standing to participate in due process and that the case has been approved by the school board as the Brown Act requires. OAH Response: OAH rejects this recommendation. OAH has limited jurisdiction. A local educational agency such as a school district is entitled to file a request for due process. Similarly, a parent or student may file a due process complaint against a school district. OAH has no authority or responsibility to look behind the complaint to determine if a governing board has authorized the prosecution or defense of a due process filing. Whether a school district has complied with state law regarding open meetings or the Education Code regarding the duties and responsibilities of governing boards is not within OAH's jurisdiction. Committee discussed and public comment heard.

Member Grosner recommended OAH reconsider its response to the June 2020 recommendation. Member Kooima seconded. Northern Committee voted: two for yes and three for no. Southern Committee voted: five for yes and one for no. OAH will respond to this recommendation.

[OAH reconsidered the recommendation. OAH rejects this recommendation for the reasons stated at the October 2020 committee meeting.](#)

AGENDA ITEM #13: TIMING OF SUBMISSION OF AGENDA ITEMS

OAH proposed change to submission dates from October 1st and June 1st to September 15th and May 15th respectively to allow for review and accessibility compliance processing. Committee discussed and no public comment submitted for this item.

Member Sadasivam recommended OAH consider changing the time of submission for Advisory Committee agenda items to May 25 for the June 2021 meeting, and September 25 for the October 2021 meeting. Member Menyuk seconded. Unanimous votes for yes. OAH will respond to this recommendation.

OAH approves this recommendation. Proposed Advisory Committee agenda items will be due to the designated Chairs by May 25th for the June meeting and September 25th for the October meeting and to OAH by noon the following business day.

AGENDA ITEM #14: TIMING AND FORMAT OF REVIEW OF PROPOSED COMMITTEE PROCEDURE CHANGES

Proposed procedures changes to be discussed in an Advisory Committee Meeting be sent to the Committee members and posted to the OAH website with the agenda 10 business days before the meeting. Committee discussed and public comment heard.

Member Sadasivam recommended OAH consider requiring any proposed procedure changes to be discussed at an Advisory Committee meeting be sent to the committee members with the agenda 10 business days before the meeting, and that the proposals be posted with the agenda on OAH's website. Member Schwartz seconded. Unanimous votes for yes. OAH will respond to this recommendation.

OAH approves this recommendation with modifications. The Committee Meeting agenda is distributed to the Committee and the public on the OAH website 10 days prior to the Meeting. The agenda will include a brief description of each agenda item.

AGENDA ITEM #17: COMPLAINT PROCESS ISSUE REGARDING OAH OR AN ALJ

Three types of "complaints" identified: a) Complaints when there is an active case for issues that arise in the case; b) Complaints after a case is concluded; and c) General concerns or questions. Ex parte communication and judicial authority were explained as applicable to this item. Feedback opportunities on mediation and hearing surveys explained. Committee discussed and public comment heard.

Member Grosner recommended OAH consider providing on its website the process for making complaints against ALJs as outlined by Advisory Committee Agenda. Member Menyuk seconded. Unanimous votes for yes. OAH will respond to this recommendation.

OAH rejects this recommendation.

Member Senegar recommended OAH consider providing ALJs training on implicit bias faced by African American students with disabilities and their families. Member Menyuk seconded. Unanimous votes for yes. OAH will respond to this recommendation.

OAH conditionally accepts this recommendation. OAH has trained and will continue to train ALJs on topics including implicit bias. OAH is and has always been open to training suggestions from the public, including specific programs, trainers, and topics.

AGENDA ITEM #18: PREVAILING PARTY DECISION STATISTICS AND IDENTIFICATION AND ELIMINATION OF BIAS

Prevailing party statistics reviewed and explained pertaining to district, student and split determinations. Typical issue distribution among cases types explained. Statutory and interagency agreement reporting requirements identified.

Member Menyuk recommended OAH consider posting on its website, on a quarterly basis, its Interagency Agreement Data Report and Quarterly Report. Member Sadasivam seconded. Unanimous votes for yes. OAH will respond to this recommendation.

OAH agrees in part to the recommendation. OAH posts the Quarterly Data Report and will continue to explore ways to make the Interagency Agreement Data accessible such that it can be posted to the website. Currently, requests for the Interagency Agreement Data can be processed through the California Public Records Act procedures.