

ADVISORY COMMITTEE MEETING

6/17/22

OFFICE OF ADMINISTRATIVE HEARINGS' RESPONSE TO COMMITTEE RECOMMENDATIONS

AGENDA ITEM 14 - RECOMMENDATION 1:

That OAH increase the visibility of its self-help resources for drafting due process complaints in the self-help section of its website.

RESPONSE TO AGENDA ITEM 14, RECOMMENDATION 1:

OAH periodically reviews its website to ensure that it is up to date in providing resources to self-represented parties. In response to the recommendation, OAH will review the self-help and resources sections, including how Parents can obtain the Self-Help Information for Special Education Cases and their ability to contact OAH for mediator assistance in drafting a complaint if they are not represented by an attorney.

AGENDA ITEM 14 - RECOMMENDATION 2:

That the scheduling orders served on the parties in a due process case include a physical list of low cost or no cost attorneys.

RESPONSE TO AGENDA ITEM 14, RECOMMENDATION 2:

OAH provides the list Low-Cost or Free Attorneys and Advocates for Special Education with the Scheduling Order to Parents or Students who are not represented by an attorney at the time they file the hearing request.

AGENDA ITEM 14 -RECOMMENDATION 3:

That the forms provided in the drop-down lists on the Special Education Division's website be available in the top five translated languages.

RESPONSE TO AGENDA ITEM 14, RECOMMENDATION 3:

OAH's website has a list of translated forms in the top five translated languages that appear when a person clicks for the form under available translated languages.

AGENDA ITEM 15 -RECOMMENDATION:

That OAH specifically state in its scheduling order that parties may request an in-person mediation or hearing based upon a showing of good cause, or through stipulation by all parties.

RESPONSE TO AGENDA ITEM 15:

OAH will inform parties that any motion for an in-person hearing needs to be filed as soon as possible but cannot define what constitutes good cause for an in-person hearing as the facts of each matter are unique.

AGENDA ITEM 16.A. - RECOMMENDATION 1:

That OAH notify parties of any change in the ALJ assigned to a case.

RESPONSE TO AGENDA ITEM 16A, RECOMMENDATION 1:

OAH provides the parties with the name of the assigned ALJ for hearing on its website that is updated immediately after the ALJ is assigned in OAH's case management system. OAH attempts to phone parties to inform them if there is a change of ALJs between the prehearing conference that sets the issues for hearing and the hearing. Finally, a party may always contact OAH prior to the prehearing conference or hearing to confirm who the assigned ALJ is for their proceeding.

AGENDA ITEM 16.A - RECOMMENDATION 2:

That, absent exceptional circumstance, OAH not change the assignment of the ALJ post prehearing conference.

RESPONSE TO AGENDA ITEM 16A, RECOMMENDATION 2:

OAH strives to have the ALJ who held the prehearing conference conduct the hearing, however operational needs do not always permit this to occur. OAH will continue to manage the hearing calendar to ensure, as much as possible, that the ALJ who conducted the prehearing conference will preside over the hearing.

AGENDA ITEM 16.B. -RECOMMENDATION:

That OAH issue an order on a motion filed after the prehearing conference at least two business days before the first day of the due process hearing.

RESPONSE TO AGENDA ITEM 16B:

Motions filed after the prehearing conference require a showing of why the motion could not be filed prior to the prehearing conference. Based upon the substance of the motion and the response, OAH rules upon the motion in a timely manner. The parties can discuss the impact of the motion with the ALJ at the hearing.

AGENDA ITEM 16.C - RECOMMENDATION:

That OAH issue written orders memorializing any verbal rulings made on motions orally argued on the first day of hearing and that such orders issue the same day.

RESPONSE TO AGENDA ITEM 16.C:

Whether the ruling on a verbal motion argued during a hearing requires a written order is within the discretion of the ALJ presiding over the hearing.

AGENDA ITEM 16.D - RECOMMENDATION:

That OAH establish a timeline in which it will provide the administrative record after a due process hearing to a requesting party.

RESPONSE TO AGENDA ITEM 16.D:

Pursuant to the Interagency Agreement with the California Department of Education, OAH strives to provide the administrative record within 90 days of the request.

AGENDA ITEM 16.F. - RECOMMENDATION:

That OAH provide direct access to all orders on its website.

RESPONSE TO AGENDA ITEM 16.F:

OAH is not required to post all its orders. OAH posts and will continue to post a representative sample of orders for the most commonly filed motions. OAH will continue to review its orders for orders that OAH deems of sufficient importance to post.