

OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION ADVISORY COMMITTEE
JUNE 2020

OAH RESPONSES TO COMMITTEE RECOMMENDATIONS FROM MAY 2019 MEETING

The Office of Administrative Hearings (OAH) Special Education Advisory Committee met on May 17, 2019, in Sacramento, Van Nuys, Oakland and San Diego. The meeting was conducted via videoconference. The joint meetings followed one agenda. At the start of the meeting, it was determined that a quorum was not reached for the Southern California members; as such, the meeting proceeded with comment only from the Southern California members that participated. During the meetings, the Northern California committee members voted to make five recommendations to change or improve OAH's processes.

RECOMMENDATIONS:

1. Agenda Item #10: Setting of dates for future Advisory Committee meetings.
 - Recommendation: Schedule Advisory Committee meetings the third Friday of June and the third Friday of October.
 - OAH Response: OAH accepts the recommendation of the Advisory Committee, has set this meeting in accordance with the recommendation and will set future meetings in accordance with this recommendation.
2. Agenda Item #12: Requests for Agenda items for future Advisory Committee meetings.

- Recommendation: Advisory Committee to identify two chairs in both Northern and Southern California, with a district and student side representative in each area. These four chairs to take the agenda items and determine which will be included in the next Advisory Committee meeting. Agenda items initially go to OAH, then the chairs have a two-week period, or some type of time frame to put the agenda to OAH.
 - OAH Response: OAH partially accepts this recommendation. During each meeting, OAH will identify one member from Northern California and one Member from Southern California to collect proposed agenda items for the next meeting. All proposed agenda items from other committee members will be sent to these members. The identified members will send OAH a list of agenda items no later than October 1 for the Fall meeting and June 1 for the Spring meeting. OAH will add additional items to the agenda as necessary and remove any agenda items that are not within the scope of the committee and timely publish the agenda.
3. Agenda Item #15: Update/impact of mediation scheduling change.
 - Recommendation: OAH to host Stakeholder meetings regarding calendaring issues.
 - OAH Response: OAH accepts this recommendation and held stakeholder meetings. These meetings were open to any member of the public who wished to attend.
 4. Agenda Item #16: Update/impact of California Attorney General determination regarding representation in Special Education due process matters.

- Recommendation: OAH will determine if the mediation-only regulations authorize participation of an advocate or educational consultant to assist parties in the process.
 - OAH Response: OAH accepts this recommendation. An attorney or independent contractor used to provide legal advocacy services may not accompany a parent or district in a mediation-only based on California Education Code Section 56500.3(a). However, California Education Code Section 56500.3(b) does not preclude the parent or public agency from being accompanied or advised by non-attorney representatives in mediation and parties may consult with an attorney before or after the mediation. If a question arises at the beginning of a mediation regarding the inclusion or exclusion of a participant under this statute, the OAH mediator will make a determination as to who can be present. Despite the foregoing, OAH will permit the parties to proceed with attorneys or legal advocates if both sides agree.
5. Agenda Item #17: Inclusion of tort claims as part of mediation discussions and resolutions – process, limits, remedies.
- Recommendation: OAH hold Stakeholder meetings to discuss the issue of the scope of claims being part of OAH's special education mediation process.
 - OAH Response: OAH accepts this recommendation and held stakeholder meetings. These meetings were open to any member of the public who wished to attend.