

TRANSCRIPTION OF RECORDED MEETING

OF

SPECIAL EDUCATION DIVISION

ADVISORY COMMITTEE MEETING

JUNE 16, 2023

BOARD MEMBERS PRESENT:

Kathleen Anderson

Daniel Shaw

Jessica Little

Mindy Luby

Marianne Grosner

Aileen Herlina Sandoval

Julie Lewin

Joshua Walden

Sue Singh

OAH STAFF PRESENT:

Peter Paul Castillo

Brittany Bell

Claire Yazigi

SPANISH INTERPRETER:

Brenda Tamez

TRANSCRIBED BY:

Michelle Jones
NCCR
Sacramento, California

The record reflects all relevant statements and conversations occurring during the course of the meeting, but is not verbatim. For clarity, superfluous words, phrases, verbal pauses and/or inaudible tones have been eliminated.

DIVISION CHIEF CASTILLO:

Good morning. We are here for the June 16th, 2023, Special Education Advisory Committee meeting. My name is Division Chief Peter Paul Castillo with the Office of the Administrative Hearings.

I would like to thank those who are attending as both members of the committee and employees of the Office of Administrative Hearings, who are assisting us today running the meeting, and also members of the public, who are attending.

We have a question before we start from Ms. Whiteleather.

(Sound cuts out, 00:41 to 00:48)

STAFF SERVICE MANAGER BELL:

Ms. Whiteleather, you may unmute yourself.

MS. WHITELEATHER:

(Sounds cuts out, 00:50 to 1:00).

DIVISION CHIEF CASTILLO:

The reason for selecting the channel, if you don't select the channel, if you speak, it's harder for the interpreter to hear you. She will hear you, but it sounds very faint.

If you're in the English channel, the interpreter can hear you better when you speak.

MS. WHITELEATHER:

(Sound cuts out, 1:17 to 1:23).

DIVISION CHIEF CASTILLO:

No, you do not.

MS. WHITELEATHER:

(Sound cuts out, 1:24 to 1:37)

DIVISION CHIEF CASTILLO:

I would like to do introductions first for the Deputy Director of the Office of Administrative Hearings, Bob Varma.

DEPUTY DIRECTOR VARMA:

Good morning.

DIVISION CHIEF CASTILLO:

We also have present Presiding Administrative Law Judge Margaret Gibson.

ADMINISTRATIVE LAW JUDGE GIBSON:

Good morning, everybody.

DIVISION CHIEF CASTILLO:

And also Presiding Administrative Law Judge Tara Doss. She says hello.

Presiding Judge Joy Redmond is unable to attend today's meeting.

And we have attending and assisting us as the secretary of this meeting, Administrative Law Judge Claire Yazigi, who you'll be hearing speaking often for the recommendations and the roll call counts for today's meeting.

Hosting the meeting is Staff Service Manager Brittany Bell; and also in attendance is Staff Service Manager Stephanie Kent.

You've heard earlier, Analyst Trinity Dorantes and, also, assisting us today are Analyst Laurie Crom (phonetic) and Anna Brown (phonetic).

We do have a quorum of the members here today. We have four members from -- I'll take the roll, but we do have the quorum. So we can proceed with today's advisory committee meeting.

For the meeting format, we're using the Zoom webinar. For the advisory committee members who I'll be taking role in introducing you in a moment, I'll ask you to be visible when you are speaking. You do not have to have the camera when you're just observing, but when you are speaking, please turn on your camera.

If you'd like to be recognized to speak, please raise your hand. There is an icon on the bottom of the screen. And then I will call you. If you have any trouble with the button or anything else, just turn on your camera and raise your visible hand, and just start waving back and forth, and we will call you and give you an opportunity to speak.

This meeting is being recorded through Zoom. As with the prior meetings, we'll be putting a recording on our website, and also we'll have a transcript made of this meeting and post that on our website.

For public comment, public comment can be done verbally or in writing through email; and I'll discuss the email in a moment. So when it's time for public comment, I'll be asking for public comment. Similar to Ms. Whiteleather, please raise your hand and we will call you; and we will permit you to speak and will ask you to unmute.

You will have three minutes to speak in response to public comments and to any agenda item that we are discussing.

If you are on telephone, to raise your hand, please hit Star*9 on your phone and we will see you raise your hand on the screen; and then when the moderator asks you to unmute yourself, please hit Star*6 to unmute yourself. And then when your three minutes are up, when you're done talking, we will mute you.

If you wish to provide written comments, please email, S-E-A, seacomments@dgs.ca.gov. You will need to clearly identify the agenda item to which your comment refers to.

When I talk about an agenda item, I'll give the agenda item. So if you could just please put in the topic or the agenda number in your email.

After the oral comments, we will read the email comments that we received. If a comment does not clearly identify the related agenda item, your comment will be read at the end of the meeting when we do public comments.

And after the agenda items, the last item is public comments. We'll ask if any member of the public has any comments they would like to make.

The overview of the process, when we start with the more substantive agenda items. The person who -- I will read the agenda item. If there is some OAH background to be provided, I'll provide some OAH background, under the process or define legal terms, and then I'll ask the person who raised the agenda item to speak.

Then, after the person speaks, OAH may respond and answer any questions that are raised. Then, it will be opened up to the advisory committee members if they would like to speak. Then, we will also, then, after that, open up to the public for any public comment.

If, at some point, a recommendation is to be made by the advisory committee members for OAH to consider, any committee member may make a recommendation.

If you are to make a recommendation, I suggest that you take a minute or two to write down your recommendation, most are typically one or two sentences, and we'll handle those one at a time.

You will be asked to read your recommendation. Judge Yazigi will go over the recommendation with you and make sure that she has it down correctly.

I will, then, ask for a second. If we have a second, we'll move to the committee member discussion of the recommendation, public comment, and then a voice vote.

We'll do this for every recommendation for every substantive agenda item.

Each member will vote through a roll call and OAH will consider each recommendation that passes by a majority by each committee.

So if the Northern California has sufficient votes for it, but, let's say, Southern California doesn't, we will still consider this a recommendation from the Northern California Committee.

And if it passes both committees, we'll consider it a joint recommendation for OAH to consider and will respond to before the next advisory committee meeting in October.

With that, we're going to do a roll call and ask the members to please identify themselves.

Kathleen Anderson?

ATTORNEY ANDERSON:

Good morning. My name is Kathleen Anderson. I'm an attorney that represents school districts and county Offices of Education. I also have a child, an adult child, with special needs, and I taught special education at a high school for a few years.

Thank you, and I'm looking forward to the meeting today.

DIVISION CHIEF CASTILLO:

Daniel Shaw?

ATTORNEY SHAW:

(Sound cuts out, 8:41 to 8:48).

DIVISION CHIEF CASTILLO:

Jessica Little?

MS. LITTLE:

Good morning.

I'm a SELPA director in Northern California.

DIVISION CHIEF CASTILLO:

Mindy Luby?

MS. LUBY:

(Sound cuts out, 8:57 to 9:12).

DIVISION CHIEF CASTILLO:

Not attending are Member Jessica Burrone and Nicholas Lutton.

We do have a quorum. We do have four members in Northern California present.

For Southern California, Marianne Grosner?

MS. GROSNER:

Good morning. My name is Marianne Grosner, and I have two children with disabilities.

DIVISION CHIEF CASTILLO:

Aileen Herlinda Sandoval?

DR. SANDOVAL:

(Sound cuts out, 9:44 to 9:59).

DIVISION CHIEF CASTILLO:

Julie Lewin?

ATTORNEY LEWIN:

(Sound cuts out, 10:01 to 10:15).

DIVISION CHIEF CASTILLO:

Thank you.

Joshua Walden?

ATTORNEY WALDEN:

(Sound cuts out, 10:17 to 10:28).

DIVISION CHIEF CASTILLO:

Sue Singh?

MS. SINGH:

Good morning, everyone. SELPA director from Southern California, also a parent of a child with disabilities.

DIVISION CHIEF CASTILLO:

Okay. And not attending today, James Lister-Looker. We have five members in Southern California attending. We have a quorum in Southern California.

I would just like to -- they won't be visible, but to give you the names of, since the last meeting in October and December, we have three new case managers that some of you may have contact with, Kamilah Hilliard, who is working out of our San Diego office, Alondra Marquez-Herrera, and Gabriel Manzo, who are working out of our Sacramento office.

And this is a reminder for the Sacramento employees who are panelists to have your camera off.

The next application period for new members will be after the May 2024 meeting. We have no vacancies until after that meeting. Just a reminder for the members that the meetings are on the third Friday in June and October every year.

If a member is not able to attend, they should notify OAH as soon as possible that they cannot attend the meeting. If a member misses two meetings, OAH may, in its discretion, remove the member and open it up again to fill the vacancy.

And I encourage all participants to fully participate in the process. Your opinions are very important for OAH in improving its process.

This meeting is governed by the California Open Meetings Act. Each member of the committee has been sent a copy of the act and is expected to follow the requirements of the act. A copy of the act can also be found on the advisory committee section of the OAH website.

I will make sure that I hear from every one of the committee members and the public during this meeting.

After the general discussion of the agenda, if there's going to be a recommendation, I'll ask for a second and I'll get a second for that, and then discussion more, and then a vote.

The one thing that we needed -- business to do before we go to the agenda items is the committee chair for the next meeting on October 20th. The job of the committee chair is to gather all the agenda items and, then, to send them by October 1st to OAH, so we can create the agenda, and then get them off by the 10-day requirement by law.

So is there anybody in Northern California who would like to be the committee chair for the October meeting? And if you could just raise your hand.

Daniel Shaw? Okay.

Is there anyone else?

Mr. Shaw will be the committee chair for the October meeting.

And for Southern California, does anybody would like to be the committee chair and to get the agenda items?

Ms. Grosner?

MS. GROSNER:

Yes. I'm happy to do it again, Your Honor.

DIVISION CHIEF CASTILLO:

Okay. Ms. Grosner will be the committee chair, as I see no one else, for the October meeting.

To the next Agenda Item 12. The responses from OAH to the October and December continuation meeting are located on our website. We have responded to all the recommendations that were approved during the last meeting there.

Agenda Item 13. At the last meeting, OAH added an agenda item issue related to late cancellations of mediations; and several members of the public were requesting more information about the numbers of mediations, the canceled mediations, and would like to report some information.

In April 2023, there were 302 mediations scheduled. Out of that 302 scheduled, 164 were held. Out of the 138 canceled mediations, 94 were canceled the day of or the day before the scheduled mediation.

And as indicated prior, the issue of late canceled mediation relates to scheduling concerns and issues that have been raised in prior meetings about ensuring that the same ALJ who's assigned to a Prehearing Conference is assigned to a hearing; and OAH has indicated that the late cancellation of mediations is part of the complicating factors when it's scheduling Prehearing Conference ALJs and then hearing ALJs.

Does any member of the committee like to be heard on this topic?

Mr. Shaw?

ATTORNEY SHAW:

(Sound cuts out, 16:03 to 16:17).

DIVISION CHIEF CASTILLO

It's consistent. We ran other months and they're about the same percentage.

Any other questions or comments from members of the committee?

Seeing none, we'll take public comment. We have -- oops. Is there any member of the public, who would like to comment on this?

Ms. Whiteleather, did you want to comment or not? If you want to comment, you can keep your hand up.

Seeing none from the public requesting comment, do we have any email comment on this?

Oh, there we go. I'm sorry. Oh, did -- let's see. I'm sorry. Ms. Kellogg, you had a comment?

MS. KELLOGG:

(Sound cuts out, 17:23 to 17:40).

DIVISION CHIEF CASTILLO:

If you can allow her to talk again, I think somehow she got muted again.

MS. KELLOGG:

(Sound cuts out, 17:45 to 18:12).

DIVISION CHIEF CASTILLO:

Ms. Whiteleather?

MS. WHITELEATHER:

(Sound cuts out, 18:13 to 18:34).

ANALYST DORANTES:

Ms. Whiteleather, are you on the English channel?

MS. WHITELEATHER:

(Sound cuts out, 18:37 to 18:44)

DIVISION CHIEF CASTILLO:

We can hear you, Ms. Whiteleather.

MS. WHITELEATHER:

(Sound cuts out, 18:46 to 18:50)

DIVISION CHIEF CASTILLO:

Yeah, continue speaking.

MS. WHITELEATHER:

(Sound cuts out, 18:51 to 19:14).

DIVISION CHIEF CASTILLO:

Okay.

Any other public comment? I'll respond to the one from Youtoomovement.

STAFF SERVICE MANAGER BELL:

You may unmute yourself. Your three minutes begins now.

ATTENDEE YOUTOOMOVEMENT:

(Sound cuts out, 19:30 to 20:37).

DIVISION CHIEF CASTILLO:

Thank you. OAH will respond to the questions. I'll, first, respond to Ms. Kellogg's question.

The issue, and that has come up in prior advisory committee meetings as agenda items, as to the scheduling of similar -- having the same judge.

The reason why is that we do have mediations scheduled on Monday and Friday, and if an ALJ is scheduled to do the mediation, there -- it creates issues about having available ALJs, having multiple PHCs on their calendar, because other ALJs are not available to handle PHCs on Mondays and Fridays.

And then if an ALJ is scheduled to have three PHCs on a particular day and those matters do not settle, and we have three hearings going forward on a particular week, then that ALJ can only hear one and the other two hearings have to be reassigned to other ALJs.

So having mediations cancel at the last moment because we will not reassign a mediation to a, now, late-freed ALJ because they had not had sufficient enough time to prepare for that Prehearing Conference and we will keep the PHC on the calendar of the ALJ who it had been assigned to when we assigned the PHCs and mediations for that particular Monday or Friday.

As to Ms. Whiteleather's question, OAH is not required, pursuant to our contract with the California Department of Education or with state or federal law, for the reasons for cancellations of mediations. We're not required to keep that information. We do not. And so we don't.

And with that, Ms. Grosner?

MS. GROSNER:

Yes, Your Honor. I have a question regarding Number 12. I wonder if I could bring that up when it's appropriate. I realize we just passed it and so.

DIVISION CHIEF CASTILLO:

For that, well, 12 is really not an agenda item. There's not much to discuss about it. It's just that it's to inform people that our responses are available to them, to look at, if they have that. And it's done if the members have further questions about the recommendations, they can raise it as an agenda item.

The other thing that people -- that this committee had asked for, and which OAH agreed to do, is to get the responses back to the recommendations published and out to the committee and to the public soon enough.

So if there needed to be further agenda items that members of the committee could raise that in the next meeting.

MS. GROSNER:

Okay. Thank you, Your Honor. I was just looking at the response to Agenda Item 14. And that had said, "OAH will research if this can be accomplished on the website and report back at the next advisory committee." So I was thinking that would be today.

DIVISION CHIEF CASTILLO:

Unfortunately, it's not an agenda item, and so we can't discuss it.

MS. GROSNER:

Okay. Your Honor, so it would have to have been requested in order to be discussed. Okay.

DIVISION CHIEF CASTILLO:

Correct.

MS. GROSNER:

I guess I'm reading this incorrectly. Thank you so much.

DIVISION CHIEF CASTILLO:

Last comment on this from Education Not Litigation.

ATTENDEE EDUCATION NOT LITIGATION:

(Sound cuts out, 24:19 TO 25:50).

DIVISION CHIEF CASTILLO:

Regarding Agenda Item 13, would any of the committee members like to make a recommendation on this?

Seeing none, we will move to Agenda Item 14.

Agenda item 14 was by committee member Ms. Grosner and is, "To recommend that OAH provide the criteria that it uses to decide a representative sample of orders for the most filed motions and what orders that OAH deems of sufficient importance to post."

I will give a little background on this and, then, I'll ask Ms. Grosner to discuss this if she so chooses.

OAH is required under our contract with the California Department of Education and by federal law to publish all our decisions, which we do online.

Our contract with the California Department of Education also requires a representative sample of the most filed orders to be posted. When OAH took on the contract, we had posted some orders on our website. OAH, then, had posted -- all its orders were searchable. So there was no representative sample because all our orders were accessible.

Due to changes in federal law, dealing with Section 508, and to remediate for accessibility purposes, OAH remediated all its decisions. But because due to the sheer number of the orders that we had, we could not remediate all our orders. So we took down that database that we have that listed all the orders.

OAH, subsequently, put on its website remediated sample orders in various areas that are accessible to the public. And in response to a recommendation from the committee, has put up what we call, "decisions by settlements." We have remediated those, so they meet the Section 508 reasonable accommodation requirements and those are accessible to the public.

So Ms. Grosner, would you like to talk further about this, your agenda item?

MS. GROSNER:

Yes, Your Honor. Thank you.

I'm just trying to get, I guess, a clear picture of the criteria that constitutes a representative sample.

So you're saying it has to do with Section 508 in the accessibility portion?

DIVISION CHIEF CASTILLO:

Section 508 is just that we have to remediate them so they're accessible. Somebody, who is vision impaired, that their reader can use it. So that's -- it would be the sheer number of orders and the time it takes to remediate those documents. That's why we stopped using the database that some of the attorneys remember us having.

But there is a criteria in our contract with CDE that we use when we put those orders back. Certain specific orders, like for continuances, stay put, et cetera, some of the more frequently filed motions and orders that we issued that we did put a representative sample on those, a year and a half ago, on our website.

MS. GROSNER:

Okay. Thank you for that.

I guess I'd still like to find out if we can recommend that OAH provide that specific criteria, so we know exactly what the representative samples are and what OAH deems sufficient in importance to post.

DIVISION CHIEF CASTILLO:

Okay.

MS. GROSNER:

Maybe we could open up for discussion?

DIVISION CHIEF CASTILLO:

Yes. I'll open for discussion.

Would any other committee members like to discuss this?

Seeing no committee members, any public comment on this?

Education Not Litigation?

STAFF SERVICE MANAGER BELL:

Your three minutes begins now.

ATTENDEE EDUCATION NOT LITIGATION:

(Sound cuts out, 30:32 to 32:14)

DIVISION CHIEF CASTILLO:

Ms. Kellogg?

STAFF SERVICE MANAGER BELL:

Your three minutes.

MS. KELLOGG:

(Sound cuts out, 32:24 to 34:32)

DIVISION CHIEF CASTILLO:

Youtoomovement?

STAFF SERVICE MANAGER BELL:

Apologies. The hands going up and down. I have to find Youtoomovement.
Give me just a moment here.

Youtoomovement, your three minutes begins now.

ATTENDEE YOUTOOMOVEMENT:

(Sound cuts out, 34:48 to 35:01) that very much are always asking for
transparency, equal opportunity, and information, reliable information.

And I do want to echo that we are requesting OAH to be very transparent, to be very honest, not to hide or choose, to pick and choose only the information they want to show the public.

We ask that all information, all OAH orders, be displayed for everyone to see, for everyone to be informed. We are a great nation that we require transparency. We require accountability.

And it's unfortunate to learn that many agencies choose to hide it, including districts, and we want OAH to be very transparent. This is very important for all of us to be well-informed on what's going on at Special Education.

So we will appreciate your support, all the members that are here today.

On that note, it used to be before where we can see who's participating at this meeting itself. For some reason, it was chosen only to show whoever's making a comment at the time.

Once again, we want transparency. We want to see who's part of all these teams. So we greatly appreciate if OAH allows the public to know who is participating. Right now, it is not open and transparent.

So I'll take time just to ask to please ensure we all are aware who's participating, who takes part of all these decisions, and that all information is easily accessible.

Thank you for this opportunity.

DIVISION CHIEF CASTILLO:

Thank you.

Deborahcam (phonetic)?

ATTENDEE DEBORAHCAM:

Hello. Thank you for the opportunity to speak.

I will also echo my grave concerns about the lack of transparency with OAH. This has been an ongoing issue. There's been a lack of transparency regarding public records and all kinds of things and, as you know, OAH is supposed to be an impartial agency who works with parents and school districts.

When OAH is not transparent, this is breeding mistrust. As we've heard, it's not just breeding mistrust among parents, but also with attorneys and school districts.

So I think that OAH is actually hurting itself. I think you're hurting your own reputation. You're hurting your own ability to be impartial when there are no explanations as to how you're making these decisions. And why there would be such a lack of transparency with a government agency, who is paid for by taxpayers, is really beyond me.

We have had these discussions for years now about transparency with OAH; and they continue over and over and over again. This should not even be a question. Everyone at OAH is paid for with tax dollars. That means that OAH, as a whole, should be transparent on every single issue.

I think that you've heard this message over and over again, and for OAH to continue to disregard the input from the public and from school districts and from attorneys is really reprehensible.

I would like to see action and I would really like us to move forward so that we do not have to continually request what is due to us as taxpayers.

Thank you.

DIVISION CHIEF CASTILLO:

From Attendee Pam?

ATTENDEE PAM RAGLAND:

Hi, everyone, sorry, delayed in a meeting. This is Pam Ragland (phonetic). I wanted to just offer a different take on this discussion.

I do a lot of things with the regular civil courts and I understand, I mean, it's been within my time of working with you guys where you even had things that were online, and it was previously facts and things like that.

So I understand that there's an entire infrastructure that, you know, is necessary in order to catalog, identify. And then you have the additional concerns of the, you know, students that are under 18, you know, and shielding their identity particularly.

But I just wanted to, kind of, throw it out to maybe -- there are already systems in California that have been developed that store this information for both the federal courts, so that's PACER, that's more federal, but for the state and the local superior courts.

I'm just wondering if there's a way to maybe take something that's already out there, and instead of having to reinvent the wheel, possibly you take advantage of something that's already there in order to make it easier for you and also easier for the public.

DIVISION CHIEF CASTILLO:

Thank you.

Do we have any email comments?

STAFF SERVICE MANAGER BELL:

No written comment at this time.

DIVISION CHIEF CASTILLO:

I'm going to ask Ms. Whiteleather, did you have a comment?

MS. WHITELEATHER:

Thank you. I just had a question.

I know that at the last couple of meetings, we had discussions about the fact that OAH does not publish all of its decisions. And you have made a statement today, Judge Castillo, that all of the decisions are published and I know that there are some of mine that have not been published.

So if there's a change now, and you're saying that all of the decisions issued by OAH are being published, that's something new and I just wanted to confirm what you said.

Thank you.

DIVISION CHIEF CASTILLO:

I'm just going to answer Ms. Whiteleather's question.

We're required by law to publish all our decisions and they are there. It is not to say that there have not been technical issues that we may have a decision in our database, but for some reason, it is not showing up on our -- when you search for that.

If that's a situation, if you could write me or our staff, and then we will investigate why the decision is not showing up on the search function. That has happened before and we've investigated it; and we fixed that so it will show up when you search.

In response to the decision by settlement, we put all of those on that were available for public. Some of them, we could not put on their decisions by settlement because the documents included students' names and they were so intertwined that we could not redact them and would violate privacy requirements.

With no further public comment, would anybody on the committee like to make a recommendation, first starting with you, Ms. Grosner for OAH to consider?

MS. GROSNER:

Well, I have to stick ideally with the same recommendation, right? So with that, I would just recommend that OAH provide the criteria it uses to decide a representative sample of orders for the most filed motions and what orders that OAH deems of sufficient importance to post.

DIVISION CHIEF CASTILLO:

Would any committee member like to second that?

Ms. Anderson?

ATTORNEY ANDERSON:

I'll second it.

DIVISION CHIEF CASTILLO:

Okay. Kathleen Anderson seconded.

Any further -- any comment on Ms. Grosner's recommendation that OAH disclose how it decides a representative sample of orders and what orders OAH deems as sufficient to post.

With that, any member of the public have any comment about whether or not this recommendation should be passed or not?

Attendee Pam?

ATTENDEE PAM RAGLAND:

Hello. Basically, it's along the same lines, right? The similar comment.

I think it is really helpful for people who are trying to help on either side, the parents or the schools, just to understand what's going on and how things are being decided.

In particular, you know, we have a lot of unique situations that have occurred because of COVID and those things are still kind of -- they're not really dead.

And so, you know, you might want to look at something one way and it could even facilitate a settlement and, you know, not expending so many taxpayer dollars because someone looks at something and says, well, this has already been decided.

So it's hard to know what of those orders are going to be important to another case until you get into the case.

So I do think it's interesting to understand what's the criteria that's being used for deciding to make those orders because, at some point in time, they're all relevant to something.

DIVISION CHIEF CASTILLO:

Thank you.

Education Not Litigation?

ATTENDEE EDUCATION NOT LITIGATION:

Thank you.

I definitely support the approval of this recommendation and I just wanted to echo Ms. Kellogg's comments and Pam's suggestions. I thought Pam had an excellent suggestion.

But one thing regarding the agenda item itself, I don't know if there's a rule that the committee at the meeting could not slightly modify the recommendation to take into consideration new information.

But, definitely, I wholeheartedly support this agenda item and it looks like, even, both sides are on board, the parent side and the district side, and that's pretty much the definition of good public policy when people on opposite sides agree on a concept.

Thank you.

DIVISION CHIEF CASTILLO:

Thank you.

Any email comments?

STAFF SERVICE MANAGER BELL:

No written comment at this time.

DIVISION CHIEF CASTILLO:

Okay. With that, we'll take a vote and I'll do roll call.

Daniel Shaw?

ATTORNEY SHAW:

Yes.

DIVISION CHIEF CASTILLO:

Jessica Little?

MS. LITTLE:

Yes.

DIVISION CHIEF CASTILLO:

Kathleen Anderson?

ATTORNEY ANDERSON:

Yes.

DIVISION CHIEF CASTILLO:

Mindy Luby?

MS. LUBY:

Yes.

DIVISION CHIEF CASTILLO:

Moving to Southern California. Marianne Grosner?

MS. GROSNER:

Yes.

DIVISION CHIEF CASTILLO:

Julie Lewin?

ATTORNEY LEWIN:

Yes.

DIVISION CHIEF CASTILLO:

Yes.

Aileen Herlinda Sandoval?

DR. SANDOVAL:

Yes.

DIVISION CHIEF CASTILLO:

Joshua Walden?

ATTORNEY WALDEN:

Yes.

DIVISION CHIEF CASTILLO:

Sue Singh?

MS. SINGH:

Yes.

DIVISION CHIEF CASTILLO:

It has passed 4-0 for the North and 5-0 for the South. OAH will respond to this recommendation.

Moving to Agenda Item 15 from Daniel Shaw.

Recommendation that "OAH add orders and decisions to a public database, in which sanctions against counsel were imposed by the administrative law judge."

Mr. Shaw, would you like to discuss?

ATTORNEY SHAW:

Sure, Your Honor. It's actually not my proposal. I believe it's Ms. Anderson's.

DIVISION CHIEF CASTILLO:

Okay, Ms. Anderson.

ATTORNEY SHAW:

(Indiscernible) attributed to me.

ATTORNEY ANDERSON:

Thank you. Yeah. I submitted that item and, somehow, it got lost in the translation that that was from me.

I think this is further to the previous discussion and comments that we've heard at this meeting and at prior meetings where we've been trying to get more orders posted. And, frankly, I would continue to advocate for all orders being posted.

Recently, or at the last meeting, we asked if that's not agreeable, to have orders linked to the same cases be posted. And that was not agreeable.

There was also a request for how could the public, or anybody, request orders, you know, when they're working on a case. The answer to that was they can request it from the case manager and OAH would endeavor to provide it by the next business day, which I appreciate.

But I can't emphasize more strongly how important we think it is, or I think it is, that all orders be posted.

That said, since it appears that OAH has decided not to, my current concern is that orders that involve sanctions against attorneys be posted. Whether the attorneys are representing school districts or whether the attorneys are representing parents, I think it's very important that persons who are retaining attorneys know if there is potentially a problem with those attorneys.

As a mother of a special needs child, back in the day when I was working with him in the public school system, I would have very much wanted to know if an attorney I was thinking of hiring had sanctions imposed and could explore the for reasons why for that.

So further to many persons' concerns about OAH transparency, I think it's important that, at a minimum -- if all orders will not be posted that, at a minimum, the orders that impose sanctions against attorneys be posted.

DIVISION CHIEF CASTILLO:

Thank you.

Would any other members of the committee like to discuss this agenda item?

Seeing none, attendee comment?

Youtoomovement?

ATTENDEE YOUTOOMOVEMENT:

Good morning, everyone. Again, this is Youtoomovement representing parents and families of special needs.

I am outraged and alarmed on the fact that lawyers can get sanctions or reprimation (sic throughout) because I believe this is going to hurt the parents. I believe this is going to make it very difficult for us parents to get representation. Our lawyers are going to be afraid to be sanctioned and to be reprimanded.

And I am very afraid how this is going to play out against all of our special needs community, who are already very shy and very much concerned about retaliation. How the -- taking the districts to due process takes.

I am very afraid how this is going to play out because I'm asking is OAH also putting sanctions against districts when they violate the law? When they break education code? Are they reprimanded? Most of the times, never. Never.

Once you file a compliance complaint and they are found out of compliance, they are not reprimanded. They're not sanctioned for what they did. They're on the watch. But districts continue on and move on, because nothing has ever happened.

In my experience, they continue to violate the law. They continue to break ed code and no reprimation or no sanction gets done against any of them.

So I am very concerned how this is going to play out. So I am totally in opposition of sanctions against parents' legal services or legal representation.

Once again, thank you for allowing me to make this comment.

DIVISION CHIEF CASTILLO:

Thank you.

Education Not Litigation?

ATTENDEE EDUCATION NOT LITIGATION:

Thank you so much.

I wholeheartedly agree with the comments made by the Youtoomovement.

Let's consider the source of this proposal. It's Ms. Anderson with the law firm of Fagen, Friedman, and Fulfrost. And you should note that when Ms. Anderson and Mr. Walden introduced themselves, they left out the names of the law firms they were with.

It's still unclear to members of the public when they're sitting here, as committee members, who exactly is paying them to be here because I doubt that they would volunteer their time, like parent attorneys and parent advocates are doing.

So yes. This is very concerning. While I support the concept of transparency and showing the orders, I believe this is a scheme by the likes of FFF, who has been sanctioning parent attorneys left and right and manufacturing issues to sanction attorneys with; in an effort to, basically, get the parent to back down and remove the ability for a parent to be represented.

The parent attorneys are not out there seeking sanctions against the district attorneys. But FFF, specifically, has a reputation for sanctioning strong advocates and using the legal system as a weapon to send chilling waves throughout the system; so that parents do not advocate and they go along with whatever the district wants.

I mean, in the West End SELPA, there's very litigious districts and they have been enabled by the likes of the law firm of Fagen, Friedman, and Fulfrost. Sanctions is not their only tool. There's also surveillance against parents and parent attorneys.

So I believe this is a scheme for the likes of FFF to be able to harm the reputation of parent attorneys by, basically, blackballing them and it's easy for them to manufacture issues that are sanctionable.

OAH, sadly, goes along with the district most of the time. OAH has a reputation of not being parent-friendly.

So I fear that this process will be used to take --

STAFF SERVICE MANAGER BELL:

Your three minutes is up now.

DIVISION CHIEF CASTILLO:

Okay.

Attendee Pam?

ATTENDEE DEBORAHCAM:

Hello. This is Deborahcam.

DIVISION CHIEF CASTILLO:

Okay.

ATTENDEE DEBORAH CAM:

I believe I'm on. Thank you.

Yes. I would like to echo the concerns. I think that, as a parent and a long-time advocate, I have seen year, after year, after year, the lack of transparency as we've discussed before. I've also seen OAH's bias against parents.

We need to remember that the IDEA, which we are all, you know, working under is based on the premise of cooperation between parents and the school districts.

And we all understand that school districts basically have unlimited resources, even though they continually say how underfunded they are. They have public money.

For example, Irvine Unified is spending over a million dollars a year on attorneys, and they're spending up to \$1,390 per hour on attorneys. That is more than most parents make in a week.

So we have an, extremely, unbalanced system here.

School districts have the expertise. They have these attorneys who this is all they do is due process hearings.

On the parent side, we have usually independent attorneys working, you know, often at much lower rates to help these parents through the system.

I'm very concerned that there are these sanctions being imposed, number one; and number two, without transparency, it's very clear to me that the attorneys who would be being sanctioned would only be the parents' attorneys, making this an even more unbalanced system.

And I disagree with the premise that parents would benefit by seeing who has been sanctioned because parents would have no way of knowing if there was merit to those sanctions or if those sanctions were simply just reminiscent of the bias against parent attorneys.

So as others have said, I think that it would serve to blackball and blacklist parent attorneys while giving more, and more, and more, power to the attorneys who are funded by taxpayer dollars.

As was mentioned previously, the school districts never get sanctioned. Irvine Unified has repeatedly had Office for Civil Rights complaints and resolutions. Repeatedly had CDE violations. No one ever gets sanctioned. No one ever gets fired. No one ever is reprimanded. And, yet, you are talking about

STAFF SERVICE MANAGER BELL:

Your three minutes is up now.

DIVISION CHIEF CASTILLO:

Okay.

Attendee Pam?

ATTENDEE PAM RAGLAND:

Okay. Sorry. I'll try this unmute thing again. All right. This is Pam Ragland.

Just so everyone knows, I am on the parent side. But I think the fact that there is a parent side and a school side is really a fundamental problem. And as long as I've been involved in this, which is quite a long time, it's concerned me that we have a system where the school districts are able to use taxpayer money to fight the parents to avoid providing the very thing that they're obligated to provide.

So I don't really see -- on the one hand, I think it's good for parents to know about the bad attorneys, although if there are quote/unquote, "bad parent attorneys," most of us already know about that, but not all parents.

On the other hand, I'm not sure how singling this particular item out is going to be really a benefit. I think either we want to have everything open, like a regular docket in the civil courts, or not pick and choose.

You know, this actually raises a whole other concern for me. If we have a bunch of attorneys out there getting sanctioned and that's being used as a tool to take away the parents' rights.

So I think this is an item where someone needs to ask, "Why do we want to single this particular thing out?"

Should we be singling any particular thing out or is it better to just say, "Let's make all the dockets open and just make the information transparent to the public. Period."

DIVISION CHIEF CASTILLO:

Thank you.

Any email comments?

STAFF SERVICE MANAGER BELL:

No written comment.

DIVISION CHIEF CASTILLO:

Okay. We have, sorry, more attendees. Ms. Kellogg?

S. KELLOGG:

Thank you.

I want to echo the prior comments that have been made that the real issue behind this is the transparency issue that not all members of the public, whether they are on a district side or a student side, are able to have access and insight into the orders that OAH makes and that this is a -- that the proposal to make sanction orders, in particular, visible is merely a stopgap measure for what should occur, which is full transparency in the first place.

But speaking as a district who is responsible for oversight and both for litigating cases and for hiring other attorneys to litigate on its behalf. If there are sanctions being issued against any attorney, whether they're on the parent side or the district side, if OAH has taken the extreme step to provide a sanction, that is something that all members of the public have a right to see, as to what that extreme measure is being done and how and why.

So that not only can we avoid using attorneys that may be engaging in extreme behavior, that is warranting of sanctions, but also that the rest of us could avoid similar behavior and know what the rules are to prevent sanctions.

I think this is a matter of transparency and I would support. However, that the real issue is complete transparency.

Thank you.

DIVISION CHIEF CASTILLO:

Lisa Corr?

ATTENDEE LISA CORR:

Yes. Thank you. Lisa Corr with Young, Minney, and Corr, an attorney representing charter schools throughout the state of California.

I mostly want to echo what Mary Kellogg says. I do not see this as an issue that is one side or the other. I agree with a release and transparency of all orders, but especially these orders for sanctions.

I think it is critical to parent and LEA selection of attorneys. I think it's critical for attorneys to understand the risk of noncompliance with what are truly a very low bar of minimum rules and expectations on preparation for due process hearings.

And I also believe that you are only sanctioning in the most extreme situations and it's important that attorneys on both sides learn from these sanction orders and increase their own accountability.

Thank you.

DIVISION CHIEF CASTILLO:

Thank you.

Any further email -- any email comment?

STAFF SERVICE MANAGER BELL:

No written comment.

DIVISION CHIEF CASTILLO:

Thank you.

Would any member of the committee, either Southern California and Northern California, like to make a recommendation on this agenda item?

Ms. Anderson?

ATTORNEY ANDERSON:

Well, I will recommend that OAH post all the orders in which sanctions have been levied by the administrative law judge onto its public database.

DIVISION CHIEF CASTILLO:

Is there any second to Ms. Anderson's recommendation for OAH to consider?

Mr. Walden?

ATTORNEY WALDEN:

Your Honor, I will second that recommendation.

DIVISION CHIEF CASTILLO:

Okay. We have a second.

Any further comment from any member of the committee on the recommendation that OAH publish sanction orders?

Ms. Anderson? Okay.

Ms. Little?

MS. LITTLE:

I just have two questions.

One, I'm wondering how often this happens and, two, I'm wondering is there another way to look this up?

DIVISION CHIEF CASTILLO:

I would have to research how often and how many orders. I don't have it off the top of my head how many motions are filed for sanctions and how many are granted or denied. I don't have it off the top of my head.

And the only other way to get this would be a Public Records Act request.

Ms. Grosner?

MS. GROSNER:

Yes, Your Honor.

So I was thinking, Member Anderson was making this recommendation, probably, because she's been trying to -- in the past, tried to, you know, have all orders posted on the website and that's been unsuccessful on our part.

So she's probably just trying to, hey, I want this piece of information; you know, something specific because it's been hard to get.

But I can't -- hearing all the public comments, I can't really support the recommendation as is, but if she would be willing to modify it to say support -- or to say that, you know, all orders and just leave it that, I would definitely be willing to support that. Because I know that was the ultimate goal of hers, I believe.

DIVISION CHIEF CASTILLO:

Ms. Anderson, if you want to modify it or not, it is up to you.

ATTORNEY ANDERSON:

Well, I'm concerned about modifying it because the request to post all orders has been repeatedly denied. And I feel like it's going to be denied again, despite all of the public comment.

I would like to think, otherwise, because as has been made clear today, every single commenter has proposed or supported full transparency, meaning all orders being published.

DIVISION CHIEF CASTILLO:

One option would be, and we've done it in the past, would be an agenda item multiple recommendations. So if you'd want to have one for all and one limited to sanctions.

ATTORNEY ANDERSON:

Okay.

DIVISION CHIEF CASTILLO:

Okay.

ATTORNEY ANDERSON:

Okay. I'd be happy to recommend again that all orders, not just the orders that I'd asked for before, that apply to a certain case or the sanctions orders, but all orders be published on the website.

DIVISION CHIEF CASTILLO:

Okay.

Is there a second for the recommendation for all orders to be published?

MS. GROSNER:

This is Member Grosner. I second that for all orders.

DIVISION CHIEF CASTILLO:

Okay.

And just for procedure, we will take comments as to both. If anyone has comments, you just identify which one. I'll ask for the attendees to identify for public comments.

And then we do a vote. I will do the vote. First, came in order for the sanctions. Then, I'll do a vote for the all orders.

Is there any other comment on either recommendation from members of the committee?

Public comments from Attendee Pam?

ATTENDEE PAM RAGLAND:

This is Pam Ragland. I definitely support all or nothing. So actually I don't support "nothing." I really support "all." I've already said that. And I do think that we can use our existing infrastructure, so OAH does not have to invent the wheel. So I agree with that.

DIVISION CHIEF CASTILLO:

Valerie Vanaman?

ATTENDEE VALERIE VANAMAN:

This is Valerie Vanaman from Sherman Oaks, California.

Did I understand you to say that if I make a public records request -- a Public Records Act request for all orders that have been issued, for example granting a continuance, that you will provide me with a copy of all those orders?

DIVISION CHIEF CASTILLO:

The Public Records Act -- I can't give legal advice, but we have had attorneys request orders, and then we look at them and determine if we can provide them or not. And if we are not to provide orders, we are required, under the Public Records Act, to

provide a specific reason under the law why we can't. And if we can provide them, we provide, first, our turnaround time and then we try to meet that turnaround time.

Education Not Litigation?

ATTENDEE EDUCATION NOT LITIGATION:

Thank you.

And I think that was a good proposal for all orders and for full transparency rather than singling out the sanctions, which as I mentioned, I believe it is a scheme by ruthless attorneys, like the law firm of Fagen, Friedman, and Fulfrost.

I do want to address a previous comment that was made that these sanctions are levied "only in the most extreme situations." That is not the case.

I have seen sanctions for exceeding a deadline by 24 hours. I have seen \$7,000 in sanctions for that.

I have seen sanctions against parent attorneys for very procedural issues that can be honest mistakes.

The problem is that, like Deborahcam mentioned, the publicly-funded attorneys with deep pockets, at the school district side, are very willing to file for sanctions against parent attorneys. The parent attorneys don't do the same, even though there might be cause.

So you know, I've seen lawyers that have violated federal court rules, from the law firm of Fagen, Friedman, and Fulfrost, specifically Ms. Shiva Stein. And the court clerk of

the federal court specifically said she violated a court rule and nothing happened. Why? Because the parent attorney does not file sanctions against the district attorney. It's just not worth their time to do that.

On the district side, they have the money and the power to go ahead and do it. So it's going to be one-sided and, like I said, it's being used as a tool to neutralize the parent attorneys.

So yes. I definitely would not support this item being called out for sanctions because I believe it's a scheme, but I support full transparency.

Thank you.

DIVISION CHIEF CASTILLO:

Mary Kellogg?

MS. KELLOGG:

Yes. I have a question and I'd like to follow Ms. Vanaman's comment in this.

If, in fact, OAH can provide orders via a Public Records Act request, why can't you make them available to the public, as a whole, rather than those with resources to engage in a Public Records Act request?

Thank you.

DIVISION CHIEF CASTILLO:

Ms. Cam?

ATTENDEE DEBORAH CAM:

Hi, thank you.

Yes. My concern is exactly the same. If you're willing to provide these orders through a Public Records Act request, it seems to me that you are actually wasting resources because essentially what is going to happen now is we are all going to be flooding the OAH with public records -- with ongoing public records requests for these orders, you know, including sanctions, but all orders.

And it seems to me to be a very imprudent way to use the resources, when you can very simply post all of them for all of us.

That would save OAH a lot of time, a lot of money, and it just doesn't make sense to me why you would withhold the orders in one venue and yet provide them in another venue, which is going to be much more costly and much more time intensive. And it may give benefit to one side over the other.

So again, this is just a lack of transparency. If you would do it, if you would provide those records via PRAs, why on earth aren't you providing them, you know, to everyone?

So I think that that's a very valid point, and I think that we really need to look into why you would do that.

Thank you.

DIVISION CHIEF CASTILLO:

Youtoomovement?

ATTENDEE YOUTOOMOVEMENT:

Good morning, again.

I am also for all transparency. I, also, believe it will be very beneficial for the public, the parents, our community, everyone who is involved in education, and particularly Special Education. It will be greatly if you can have all the information out on your website, available for us to find it, without having to go through the hurdle of putting a California public record request. It would be much efficient and it will help much more all our community.

Thank you.

DIVISION CHIEF CASTILLO:

Ms. Kellogg?

MS. KELLOGG:

Thank you, Your Honor. Just one other comment.

It seems to me that if a member of the public was to ask for all the orders, the member of the public could just then take the Public Record Acts request and post it on a separate website that only those in the know could see. But OAH won't do that.

I encourage OAH to be public and transparent and post all orders. Thank you.

DIVISION CHIEF CASTILLO:

Thank you.

Any email comments?

STAFF SERVICE MANAGER BELL:

No written comment.

DIVISION CHIEF CASTILLO:

Okay. We'll do a vote. Then, after the vote, we'll be taking a break. Then, we'll move on to the next agenda item.

For this, it will be broken down into 14A and 14B.

14A, the recommendation that OAH add orders and decisions to its public database in which sanctions were imposed by the administrative law judge.

I will do role for that.

Daniel Shaw?

ATTORNEY SHAW:

Your Honor, I think there's one more public member who just wrote -- or raised their hand.

DIVISION CHIEF CASTILLO:

Is there? I can't --

STAFF SERVICE MANAGER BELL:

Judge Castillo, I believe that was Ms. Whiteleather. I will go ahead and look for her.

DIVISION CHIEF CASTILLO:

Okay.

MS. WHITELEATHER:

Thank you. I don't know if there's something wrong with the system, but I've had my hand, but I've had my hand up. But thank you.

I just wanted to make sure that as OAH used to do with the decisions, when there are sanctions -- because I'm aware of a number ordered -- of sanctions ordered without authority by OAH from others. I've talked to colleagues, who have been sanctioned for things that nobody would ever sanction them for.

And there are appeals that if it's overturned by a court, that that would be added to any sanction. I have no problem with listing things, but you need to -- OAH needs to be, again, transparent and if they have done something that's ultra-virous or if they have added something -- if there is a reversal of sanctions. I've talked to colleagues. Then that should be added to the website.

Thank you.

DIVISION CHIEF CASTILLO:

Thank you. Okay.

JUDGE YAZIGI:

Judge Castillo?

DIVISION CHIEF CASTILLO:

Yes?

JUDGE YAZIGI:

This is Claire Yazigi. Before we begin, I just want to make sure that I'm tracking properly.

Number one, that this is actually an Agenda Item 15A, not 14A.

DIVISION CHIEF CASTILLO:

I'm sorry. I'm sorry, 15.

JUDGE YAZIGI:

15A. And then, first for 15A, we're taking Member Anderson's recommendation that OAH orders and decisions to its public database, in which sanctions against counsel were imposed by the administrative law judge. So we're doing the sanctions, first, as 15A; do I have that correct?

DIVISION CHIEF CASTILLO:

Correct.

JUDGE YAZIGI:

And then the second on that was who?

DIVISION CHIEF CASTILLO:

Mr. Walden was the second on that one.

JUDGE YAZIGI:

Okay. Thank you. That was my question.

DIVISION CHIEF CASTILLO:

And then 15B, I'm sorry the number was off, would be that OAH publish all orders on a publicly accessible database.

JUDGE YAZIGI:

Thank you.

DIVISION CHIEF CASTILLO:

So for 15A, which Judge Yazigi stated, regarding sanctions, vote.

Mr. Shaw?

ATTORNEY SHAW:

For 15A, I'm a no.

DIVISION CHIEF CASTILLO:

No.

Jessica Little? You're still on mute, Ms. Little.

MS. LITTLE:

Oh, sorry. No.

DIVISION CHIEF CASTILLO:

No.

Ms. Anderson?

ATTORNEY ANDERSON:

Yes.

DIVISION CHIEF CASTILLO:

Yes.

Ms. Luby?

MS. LUBY:

No.

DIVISION CHIEF CASTILLO:

Okay.

For Southern California, Ms. Grosner?

MS. GROSNER:

No.

DIVISION CHIEF CASTILLO:

No.

Ms. Lewin?

ATTORNEY LEWIN:

No.

DIVISION CHIEF CASTILLO:

No.

Aileen Herlinda Sandoval?

DR. SANDOVAL:

No.

DIVISION CHIEF CASTILLO:

Joshua Walden?

ATTORNEY WALDEN:

Yes.

DIVISION CHIEF CASTILLO:

Sue Singh?

MS. SINGH:

No.

DIVISION CHIEF CASTILLO:

Okay. So 15A does not pass from either committee.

We will go to 15B, which is all orders to be publicly accessible on a database.

Daniel Shaw?

ATTORNEY SHAW:

Yes.

DIVISION CHIEF CASTILLO:

Jessica Little?

MS. LITTLE:

Yes.

DIVISION CHIEF CASTILLO:

Kathleen Anderson?

ATTORNEY ANDERSON:

Yes.

DIVISION CHIEF CASTILLO:

Mindy Luby?

MS. LUBY:

Yes.

DIVISION CHIEF CASTILLO:

Marianne Grosner?

MS. GROSNER:

Yes.

DIVISION CHIEF CASTILLO:

Julie Lewin?

ATTORNEY LEWIN:

Yes.

DIVISION CHIEF CASTILLO:

Aileen Herlinda Sandoval?

DR. SANDOVAL:

Yes.

DIVISION CHIEF CASTILLO:

Joshua Walden?

ATTORNEY WALDEN:

Yes.

DIVISION CHIEF CASTILLO:

Sue Singh?

MS. SINGH:

Yes.

DIVISION CHIEF CASTILLO:

That passes by both committees and OAH will respond to that committee recommendation.

At this time, we will be taking a 10-minute break. We will be back at 11.45 a.m. If we can stop the recording.

(Break Taken Off the Record)

DIVISION CHIEF CASTILLO:

We are back after our break and we're going to move on to Agenda Item 16. Recommendation that OAH allow the public to observe live those video conference hearings that parents ask to be public.

I'll give a background on the law on this matter. Pursuant to federal and state law, Special Education hearings, in order to protect the privacy of the student, are presumed to be confidential and the hearings are not open to the public.

However, there is a provision under both federal and state law that if the parent and/or the student's legal guardian requests the hearing to be open to the public, the hearing will be open.

At the Prehearing Conference, we ask attorneys for the student whether or not parents/legal guardian wish the hearing to be open to the public.

When we had hearings in person, if the hearing was open, anybody from the general public could come in and observe the hearing and observe the hearings. With the advent of video conference hearings, the standard order from OAH in the

Prehearing Conference orders states that if the hearing is public and somebody wishes to observe at the conclusion of the hearing, OAH will provide that person with an audio recording of the hearing.

So this was from a member -- we had both recommendations from North and South on this topic. From Southern California, if the person who raised that would like to speak first. Then, I'll have the person from Northern California speak.

MS. GROSNER:

Thank you, Your Honor.

Yeah. So I guess I'm confused because it was an option that parents had when it was in person and now it's not for the online or virtual meetings. And so it just seems like it was and it wasn't.

Now it's not really allowing the parent to exercise their rights to have an open hearing. So I was just wanting to bring that up.

And I just had a suggestion. Well, what if the parent requested an open hearing, could perhaps OAH allow, you know, folks that want to register to register and then send them the link, so that way, you know, they can go ahead and be a member in attendance of, you know, the public.

So I wondered if that was something that could be an option, but I'll let Member Shaw speak to that. Or to those.

DIVISION CHIEF CASTILLO:

Is this from -- was this you Mr. Shaw or another member of the Southern California -- or Northern California?

ATTORNEY SHAW:

No. That would be me.

DIVISION CHIEF CASTILLO:

Would you like to speak on this topic, Mr. Shaw?

ATTORNEY SHAW:

Sure.

I've heard this issue be raised by many folks who are calling in. And, you know, for the record, I can't recall a hearing that I held open to the public, particularly because of the nature of these cases, but I understand issues of access to justice.

My concern is with providing an audio recording deprives the public of the ability to actually see the demeanor of the witnesses, of the participants, and make their own kind of credibility determinations. I think that's important.

I also have experienced, in several cases to date, where portions of the audio recordings are missing; and, thus, if there's a technical issue and the audio recording is incomplete, then providing a copy of it is not going to provide the entirety of the case that was presented.

Recently, in preparation for a different type of case, we convened a focus group with about 26 participants from a particular demographic that were pooled through an

entity that we utilized. It was all conducted over Zoom. So I think the technology is there.

So I think this seems to be important to a lot of parents who call in, as well as some of my colleagues that I have spoken with. And I'm just trying to better understand, kind of, what's stopping a link being provided so members from the public could observe if a student asked for a hearing to be open.

DIVISION CHIEF CASTILLO:

Would any other member of the committee like to discuss Agenda Item 16?

Ms. Anderson?

ATTORNEY ANDERSON:

I just want to echo the other committee members' thoughts and comments about this. I don't understand actually why, simply because we have a virtual platform now, that the ability for the public to attend a hearing would be pulled back.

I think one thing that has resulted from COVID is people are pretty familiar with virtual platforms; and here we are in a webinar, you know, with the members of the public participating. They can see us. They can hear us. And I don't see why that cannot also be done with a hearing.

DIVISION CHIEF CASTILLO:

Any other member of the committee would like to discuss Agenda Item 16?

Seeing none, public comments?

Ms. Whiteleather?

MS. WHITELEATHER:

Thank you.

I do want to note that the California Government Code 11425.20 states that a hearing shall be open to public observation "if," and in our cases, we're talking about with parents' permission or request. And observation means just what it says.

It doesn't mean that somebody should have to wait months, make a request, and then listen for hours and hours to a recording. That is obviously not observation.

And, as I think Ms. Anderson just pointed out, we're doing this right now with OAH's ability to mute and control the participation of outside parties. If this can happen with the advisory committee, certainly for a little hearing where the parent seeks an open hearing, this could be affected there as well.

Thank you.

DIVISION CHIEF CASTILLO:

Deborah Cam?

STAFF SERVICE MANAGER BELL:

Deborah Cam, you may now unmute yourself. Your three minutes begins now.

ATTENDEE DEBORAH CAM:

Thank you. Can you hear me?

DIVISION CHIEF CASTILLO:

We can hear you, Ms. Cam.

ATTENDEE DEBORAH CAM:

Okay. Thank you. There was a delay with the button.

Yes. I am, really kind of, shocked that we're even having to discuss this. As Ms. Whiteleather just pointed out, and actually as, Judge, you also pointed out, this is a right of parents to have an open hearing.

And I think what you are missing, perhaps, is that receiving an audio recording after the fact might be somewhat beneficial to the other party, but the right to an open hearing is for the parent who is undergoing the hearing, and that is to allow them to have support and have people there during the hearing period. It is -- just allowing an audio recording after the fact to other people does not provide the same benefit and the same right that parents have to have an open hearing.

I have met many, many parents who want to have open hearings and it actually is easier now and more beneficial now that we can do it over Zoom, as many people have pointed out, as we're doing right now.

It also levels the playing field because, not only does it benefit that parent who has the right to have an open hearing, it also benefits all of the other parents who can actually witness a due process hearing when they might be considering filing for due process or if the school district has filed against them.

As we've discussed, there's a huge disparity in bias here, and parents don't have expertise in due process hearings. And it's hugely beneficial when a parent allows for an open hearing.

I've actually -- I've actually observed due process hearings in other states, where they've allowed the open hearings during COVID and even now. So I don't know why

California again is so, lacks transparency and is so biased against parents from gaining the information that they need and from providing the basic parental rights as Ms. Whiteleather enumerated.

I think that this is an egregious abuse and parents need to have that right and you, obviously, have the technology. There's absolutely no reason other than pure bias against parents for not allowing this immediately.

Thank you.

DIVISION CHIEF CASTILLO:

Education Not Litigation?

ATTENDEE EDUCATION NOT LITIGATION:

Thank you.

Excellent comments by Ms. Whiteleather and Ms. Cam. I wholeheartedly echo those.

There is a Facebook group, called "Special Education Advocate Leaders," where there's about almost 3,000 parents and advocates and attorneys in this group, and people are posting links from the East Coast on how to participate in virtual open hearings in their states.

So as Ms. Whiteleather said, this is a parent right and it's being violated. I had hearings in person as a parent and I was allowed to open it up to the public and there was no issue. As the judge said at the beginning, this is a right under IDEA.

Now, I don't see why it cannot be done in a virtual platform and, as others have said, we're doing that right now. OAH has the ability to mute. OAH has the ability to expel people from the meeting if there's disruption.

So I think this just goes back to the culture of secrecy, lack of accountability at OAH, where they came up with this process that everybody has to PRA an audio recording after the fact. And there's no reason why the public should not be allowed to attend these hearings live, as the law didn't contemplate.

Obviously, the law didn't contemplate COVID, but I think it's being used as a work around by OAH to kick the public out and to avoid public scrutiny. Because if the public were to watch some of the behavior by the judges who show clear bias against parents, they would be shocked.

So this is an attempt for OAH to continue to avoid transparency and exclude the tax paying public from the process and, in the same breath, deny parent rights under IDEA.

So this item should be a no brainer and OAH should move quickly to stopping these violations of parent rights and to implement changes ASAP before the next advisory committee meeting.

Thank you.

DIVISION CHIEF CASTILLO:

Maureen Graves?

STAFF SERVICE MANAGER BELL:

Maureen Graves, you may unmute yourself. Your three minutes will start now.

DIVISION CHIEF CASTILLO:

Maureen Graves, you need to unmute yourself. We do not have the ability to unmute you.

Welcome back to Maureen Graves.

Maureen or Jesse GP (phonetic)?

ATTENDEE MAUREEN GRAVES:

Yeah. Sorry. I had checked out on that other computer. This is Maureen Graves.

DIVISION CHIEF CASTILLO:

Okay.

ATTENDEE MAUREEN GRAVES:

I have a couple of comments.

One is that I agree this is an extremely straightforward issue, and it's very troubling that it's taken this long to fix. I have done a number of open hearings. Some cases involve material that's highly confidential for families. Some cases involve material that school districts do not want in the open, and many parents care about children other than their own.

I also think it's much more intrusive for a family and I would have much more doubt about counseling a client that would be okay to have a tape floating around, forever, of a due process hearing, rather than letting people come at a moment in time and watch and not be permitted to record it.

I think that that is -- the idea of having these tapes out there is much more intrusive for family privacy, and it makes the opportunity to have an open hearing not really a right to an open hearing since people can't see, but a profound sacrifice of confidentiality in the long term.

Thank you.

ATTENDEE PAM RAGLAND:

Sorry. It takes a second to unmute. This is Pam Ragland. I help the parents.

I completely agree with the right to have open hearings. Sometimes, actually, we request open hearings with the parents that I assist because we do want the public to be aware of what the schools are doing. And, you know, very often in the districts, there are things that are done in the dark and, you know, it can be very enlightening.

I really believe it's up to the parent to decide whether or not they would like the public to be in their meeting, or they believe that it's of a nature that they don't want it open to the public. And that should be the determining factor.

From the school district side, there really shouldn't be any reason that something is kept confidential and nor from OAH.

So I believe it should just be, actually, the default and parents should request if they want to keep it confidential and there shouldn't be any such thing as anybody else making that decision except for the parent.

DIVISION CHIEF CASTILLO:

Youtoomovement?

ATTENDEE YOUTOOMOVEMENT:

Good afternoon, again.

I am very alarmed and concerned that we're continuing to discuss this when it's already written in the law. I'm sad to say that OAH has admitted, in some ways, that they're in violation of this law as it should be -- the ability to observe, it should be, whether it's in person or whether it is by Zoom, by Teams or any other virtual program. Period.

And yes. It should be a parent's right to choose to open it or not, but I am alarmed that this is not happening and there's another alternative that is not within the context of the law.

So I support that all hearings be allowed -- allow the parents' decision to either have it open or close.

Thank you for this opportunity to provide comment.

DIVISION CHIEF CASTILLO:

Thank you.

Tanya Whiteleather?

MS. WHITELEATHER:

My hand is not up. Thank you.

DIVISION CHIEF CASTILLO:

Okay.

And any written comment?

STAFF SERVICE MANAGER BELL:

No written comment for this agenda item.

DIVISION CHIEF CASTILLO:

Thank you.

So would any member like to make a recommendation regarding Agenda Item 16, if you could raise your hand.

Mr. Shaw?

ATTORNEY SHAW:

Sure. The recommendation is that OAH allow -- sorry. I'm trying to put my hand down. Pursuant to a parent request, that the OAH make available -- how do we write this, I apologize -- allow the public to observe, live, the video conference hearing that parents asked to be public.

DIVISION CHIEF CASTILLO:

Okay.

Would any committee member like to second the recommendation from Mr. Shaw?

Ms. Grosner?

MS. GROSNER:

Yes, Your Honor.

DIVISION CHIEF CASTILLO:

Okay.

Any further --

JUDGE YAZIGI:

Judge Castillo, I have a question. This is Clary Yazigi.

DIVISION CHIEF CASTILLO:

Yeah.

JUDGE YAZIGI:

I want to know is the recommendation made by Mr. Shaw or Ms. Grosner and Mr. Shaw jointly?

DIVISION CHIEF CASTILLO:

Mr. Shaw.

JUDGE YAZIGI:

Okay. Thank you.

DIVISION CHIEF CASTILLO:

It was a joint agenda item.

JUDGE YAZIGI:

Understood. Thank you.

DIVISION CHIEF CASTILLO:

Any further comments by members of the committee regarding the recommendation that OAH allow the public to observe those live video conference hearings that parents ask to be open to the public.

Seeing none, any comments from the public attendees regarding this recommendation?

Deborah Cam? You may unmute yourself.

ATTENDEE DEBORAH CAM:

Hi. Can you hear me?

DIVISION CHIEF CASTILLO:

We can hear you.

ATTENDEE DEBORAH CAM:

Okay. Sorry. There's a delay.

I'm wondering if this should be revised to actually include the legal citations of the state and federal laws that you mentioned, so that this isn't really just OAH allowing parents, as it's stated, because I don't think that OAH has that authority to allow or disallow if this is a right that is written in state and federal laws.

So I'm wondering if the proposal should actually just say that OAH immediately begins complying with those state and federal laws and those are enumerated within that recommendation.

Thank you.

DIVISION CHIEF CASTILLO:

Tanya Whiteleather?

MS. WHITELEATHER:

I do not have my hand up. Thank you.

DIVISION CHIEF CASTILLO:

Okay.

Deborah Cam?

ATTENDEE DEBORAH CAM:

I just spoke. Thank you.

DIVISION CHIEF CASTILLO:

Okay. Your hand is still up. I'm sorry.

ATTENDEE DEBORAH CAM:

Oh, sorry.

DIVISION CHIEF CASTILLO:

Education Not Litigation?

ATTENDEE EDUCATION NOT LITIGATION:

Thank you.

I wanted to echo the comments by Maureen Graves. I thought it was an excellent point, that I hadn't thought of, which, yeah, having a tape floating out there, and again, then it would involve members of the public to take the extra step to put in a PRA. It's just adding roadblocks to access the information.

And I wholeheartedly support Ms. Cam's recommendation to modify the recommendation to be that the committee is requesting that OAH immediately comply with the provisions of state and federal law as stated by Judge Castillo earlier; and that this is a recommendation from the committee for OAH to immediately comply by allowing this live participation by members of the public.

Thank you.

DIVISION CHIEF CASTILLO:

Youtoomovement?

ATTENDEE YOUTOOMOVEMENT:

Afternoon. This is Sam, a 13-year-old student and advocate for special needs children and community.

On behalf of our community, we ask for transparency and accountability. We request that OAH allows public hearings to be open to the public, both in person and virtual. Please comply with the law.

Thank you.

DIVISION CHIEF CASTILLO:

Thank you.

Pam?

ATTENDEE PAM RAGLAND:

I just want to echo, I do agree with the speaker who recommended adding the laws and just as a reminder that these things already should be being done. So I don't even see why actually this is a discussion.

It is a bit concerning to me that when decisions are made that there may not be a process in place to research and make sure that that decision is compliant with the law before it's made.

So I completely support revamping that, including those citations, and just saying that, you know, this committee recommends that OAH is compliant with the law and these are the laws and that's pretty simple.

DIVISION CHIEF CASTILLO:

Okay.

Do we have any email or written comments on this agenda recommendation?

STAFF SERVICE MANAGER BELL:

No written comments.

DIVISION CHIEF CASTILLO:

That will -- I'm not sure if Ms. Whiteleather's hands are up or not.

So Ms. Whiteleather?

MS. WHITELEATHER:

My hand is not raised. I don't know what's the problem. Sorry.

DIVISION CHIEF CASTILLO:

Okay.

Mr. Shaw, based on the public comment, would you like to revise the recommendation or leave it as is?

ATTORNEY SHAW:

So I'm not inclined to revise the recommendation at this time. If folks want to communicate with me with respect to what they believe the law says.

I'm familiar with the government code section that, frankly, I think was written at a time before we had virtual hearings and it does allow some wiggle room to provide, after the fact, access to a recording to satisfy, you know, this particular requirement.

I think that's more of a legislative issue. I'm not intimately familiar with the federal law that provides a parent with the right to an open hearing per se. I was grabbing my book and trying to look through the 14-15 to look for that.

But if anybody has concerns, please provide me your cites and it's something I will certainly consider in a subsequent committee meeting.

DIVISION CHIEF CASTILLO:

Okay.

With that, we'll go as stated on the recommendation before, and I will go take a vote that OAH allow public to observe those live video conference hearings that parents asked to be a public hearing.

Mr. Shaw?

ATTORNEY SHAW:

Yes.

DIVISION CHIEF CASTILLO:

Jessica Little?

MS. LITTLE:

Yes.

DIVISION CHIEF CASTILLO:

Kathleen Anderson?

ATTORNEY ANDERSON:

Yes.

DIVISION CHIEF CASTILLO:

Mindy Luby?

MS. LUBY:

Yes.

DIVISION CHIEF CASTILLO:

Marianne Grosner?

MS. GROSNER:

Yes.

DIVISION CHIEF CASTILLO:

Julie Lewin?

ATTORNEY LEWIN:

Yes.

DIVISION CHIEF CASTILLO:

Aileen Herlinda Sandoval?

DR. SANDOVAL:

Yes.

DIVISION CHIEF CASTILLO:

Joshua Walden?

ATTORNEY WALDEN:

Yes.

DIVISION CHIEF CASTILLO:

Sue Singh?

MS. SINGH:

Yes.

DIVISION CHIEF CASTILLO:

The recommendation for Agenda Item 16 has passed unanimously from both committees and OAH will respond to that recommendation.

Agenda Item 17. Recommendation that OAH communicate in writing, provide written documents and notification, with parents who do not choose to sign up for the e-filing system.

And just to give members of the public background. Several years ago, OAH instituted a system for electronic filing of documents with OAH in order to protect

privacy by creating a secured electronic channel for us to receive documents and to send documents down to prevent hacking or data going elsewhere where it should not be.

Parties may file due process complaints, motions, et cetera, with OAH through the secure file system known as SFT.

OAH serves documents upon parties through SFT if the parties or their attorneys, if they're represented by counsel, have provided OAH written consent that in matters involving these parties/persons, that OAH use the SFT system. If OAH does not get this written consent to use SFT, OAH will serve the party that does not provide consent either by US Mail or overnight courier with that.

I think this was from Southern California. If the Southern California member who proposed this agenda item would like to discuss?

MS. GROSNER:

Yes, Your Honor. Thank you.

So I'm aware there's a couple instances where families did not sign up for the secure e-file system, but yet OAH and the school districts were sending messages and documents through the e-file system and to the parents' email addresses, which they didn't consent to.

And one parent, apparently, was having some email problems, so they actually didn't get any of the emails from OAH, which included a hearing notice, which caused some issues because the parents never showed up for the hearing.

So it's kind of confusing because the OAH website states that OAH will not mail attachments to parties, but this appeared to have happened.

And in one of those cases with those families I just mentioned, they were in the process of moving; and apparently a hearing notice from OAH went to their porch. It was left there and there was no signature requested. Then, the parents, because they were moving, didn't see that, and so that presented a problem as well.

So it would be great to see OAH use a courier or trackable service that actually provides a proof of service, kind of like what is requested of the parents to do.

DIVISION CHIEF CASTILLO:

Or SFT is only -- I mean, what OAH uses to serve documents, unlike some federal and court systems in which parties, when they file documents through the electronic system, the electronic system will serve the documents on the other side. That is not how our SFT system is. It's a one-way system. So parties file with us and we serve the stuff straight to them. There is no similar like other court system, in which if a party files a document, it automatically serves a copy on the parties who requested access.

And so, as to the other side, of whether it's parents filing documents by email or school districts and their attorneys serving documents on parents by email is not something that SFT is involved in.

Are there any other comments or questions from members of the committee on this Agenda Item 17?

Attendee Pam?

ATTENDEE PAM RAGLAND:

Sorry. Unmute delay.

Yeah. I wanted to point out. There is -- it depends on whether the parents are represented or not, but there is a California rule of court, and I was trying to see if I could find it. I can get it to the committee.

But there is a California rule of court that if a person is unrepresented, you must have their actual permission in order to electronically serve them with anything.

So I'm not exactly sure why OAH would not follow that same rule. And of course, the reason is, you know, what the person who brought this forward said. It's because you want to make sure that documents are actually being served on the parties.

And with all the trickery and everything going on, I mean, the whole service process I think in OAH is kind of, okay, no offense to anybody, but it's, kind of, "loosey-goosey" compared to what is typically done in, like, you know, the civil courts and federal courts and things like that.

So I guess I would say that I feel that what should happen is that unless a parent has consented to electronic service, and even now the attorneys have to consent to electronic service. So unless someone has consented to electronic service, it should be presumed that the service is going to be physical service by mail.

And, you know, in this situation where somebody's moving, I'm not sure if that was a due process filing where they gave the address or not, but it seems to me that it would be, you know, incumbent if somebody's just not responding, an inquiry needs to be made that that's the right address.

So this does concern me, and I think that this court should follow the same rules.

DIVISION CHIEF CASTILLO:

Education Not Litigation?

ATTENDEE EDUCATION NOT LITIGATION:

Thank you.

Well, Pam brings up an important issue, which is OAH doesn't follow the same rules that courts do, which is fine because it's supposed to be a less formal process.

However, we should all know what rules and which rules are those. And we don't. Because OAH judges make it up as they go along.

So thank you, Ms. Grosner for bringing this item forward because I am aware of a case where the parent did not have electronic access at the time of the hearing and OAH proceeded with the hearing without the parent.

And it should be just like Pam outlined, unless the parent agrees to electronic service, then OAH should assume that the parent is not agreeing to electronic service and, therefore, OAH should serve by personal service and there should be a proof of service.

Why are there different rules for OAH than for parents and even districts? I, as a parent, have seen how OAH sweats me if my proof of service and the district also has to provide proof of service. But OAH is not subject to those same rules? So that's very unfair. And OAH should ensure, especially for something like a hearing.

Now, thankfully, in the case that I'm aware of, I believe Judge Mann issued a decision vacating the hearing after it was conducted because he realized that the parent did not have an opportunity to attend the hearing due to the notice problems.

So this is really basic. I mean the right to notice is a very basic due process right for parents. So the fact that this process is flawed is very concerning and should be fixed ASAP.

And OAH already has rules in place, but what happens when those rules are not being followed consistently?

Thank you.

DIVISION CHIEF CASTILLO:

Deborah Cam?

ATTENDEE DEBORAH CAM:

Hi. Thank you.

Yes. I would like to echo the previous comments and also add to it. One of the things that we learned during COVID is the families that were hit the hardest were those who did not have internet access, did not have access to computers.

So, once again, I think OAH's decision to use this kind of system without even asking the parents really precludes those with low income and those who do not have this electronic access.

You know, we do have things where parents are representing themselves, or even things like mediation only, where people are having to -- where parents are having to access the system. And it's not very user friendly. I did have to access it to request mediation only recently. And I don't find that these systems are very parent-friendly at all.

And it's my understanding that the IDEA has specifically, you know, authorized and chartered the state departments to hire OAH, for example, to educate parents on these things.

And at every turn, it seems like OAH is putting up roadblocks and obstacles for parents, and as we discussed previously, even violating their rights to an open hearing, which is completely against the IDEA.

OAH is supposed to be helping parents understand this system, because most parents are not attorneys. Most parents are just trying to get educational services for their children that they deserve under the law. That's it. And OAH has complicated the process, and OAH is not helping parents through this.

I you are only providing electronic service when we know that many parents don't even have access to that, then you are knowingly discriminating against those families. I think that's greatly concerning.

Thank you.

DIVISION CHIEF CASTILLO:

Youtoomovement?

ATTENDEE YOUTOOMOVEMENT:

Hi. Good afternoon, again.

I also would like to express my concern for the low-income and parents that have very little education. I have come to meet several parents within my area that barely have second or third grade education, and these parents are at a disadvantage. Most of them are within the Hispanic community.

And they are at a disadvantage because they are -- first of all, they do not understand Special Education. They do not understand the litigation process. They do not understand all the rules and regulations that need to be followed. And they do not understand or know how to defend themselves and they are very much afraid.

And that's why our low-income community, we never hear from them. We never hear anything from them because they do not know how to even come into and to play a role and speak in these type of forums. How are we to expect for them to know what documentations to read and follow and sign and approve when OAH is not assisting parents.

I also would like to say that this is unfortunately discriminatory, and this is one of the things why our movement is so vocal. We would like our parents to be equally represented, equally treated with respect, and understand that many of them do not know the system, do not understand what to do and how to provide comments and how to be involved.

And it's for them that we need to ensure that they get everything in writing. They get everything in their native language, in Spanish, on big bold text, and get it by hard mail. Because most of the time, some of them don't even know how to check their mails. I had to assist a couple of families like that and it's very hard and very difficult to see them not get the equal treatment.

So I highly recommend that you ensure and use all resources available, hard copies, electronic, regular mail, everything that is available to ensure parent participation and parent involvement.

Thank you for this opportunity.

DIVISION CHIEF CASTILLO:

Is there -- from the committee -- I mean, any public email comment? I'm sorry.

STAFF SERVICE MANAGER BELL:

No written comment.

DIVISION CHIEF CASTILLO:

Okay. From anyone, Ms. Grosner or anyone else, with this recommendation on Agenda Item 17 for OAH to consider.

Mr. Shaw?

ATTORNEY SHAW:

Did I understand what you were saying earlier? I want to make sure I understood it correctly. That in the event that a parent is not signed up for the electronic filing system that OAH provides everything in writing, sent to the address that they have on record?

Because wouldn't the parent have to sign up for that system in order to receive anything electronically in the first place?

DIVISION CHIEF CASTILLO:

Correct.

So unless a parent or any attorney, because attorneys will sign up for all cases that they are participating in, sends in the form to consent to electronic service, OAH will provide a hard copy and we will typically send that by overnight courier to the parent.

ATTORNEY SHAW:

Okay. And then --

DIVISION CHIEF CASTILLO:

So even in situations, and this is where I think some of the confusion happens, is we do have parents who electronically file documents, but have not consented to electronic receipt of documents.

And so that, even those situations, we don't turn off the secure file system for people to send us documents even if they have not -- to upload those documents, even if they haven't submitted that form, so.

MS. GROSNER:

Your Honor, can I -- I think someone's waiting to speak.

DIVISION CHIEF CASTILLO:

And with -- and people have discussed specific -- I cannot discuss because of confidential things about specific cases on that. I can just talk, generally, our procedures, but as specific case, I cannot provide information on that due to confidentiality concerns.

Ms. Grosner?

MS. GROSNER:

Yes, Your Honor. I was just going to add, I think someone might be waiting to speak.

DIVISION CHIEF CASTILLO:

We've already closed public comment, so we've -- so public comment happened. We have the agenda items to go through. I just -- like, we are scheduled until 1:00. We will go longer if we have a quorum there, but just to remind people that these agenda items have been submitted by members of the committee and, you know, we do like to go through them.

So if there's a recommendation on this agenda item to consider by Ms. Grosner or anybody in the committee?

MS. GROSNER:

Well, I would like to make a recommendation, but I just wanted to reiterate the person waiting was waiting during the public comment session and didn't get called on. And she wasn't -- she didn't join after the fact, but that was my comment about the public commenter.

So my recommendation is that OAH communicates in writing when sending written documents and notifications to parents who choose to not sign up for the e-filing system and that OAH includes a proof of delivery service to ensure delivery.

JUDGE YAZIGI:

This is Clary Yazigi. I just want to make sure I've captured everything.

So the recommendation is that OAH communicate in writing, and this was tracking what was written in the agenda. So, in parentheses, provide written documentation/notification.

I also heard mention to parents' address of record. Ms. Grosner, is that included as part of it as well or no? Mention of parents' address of record.

MS. GROSNER:

I did not have that in my recommendation.

DIVISION CHIEF CASTILLO:

If you want to include that, if you want to add that, that'd be fine.

MS. GROSNER:

Okay. Yeah. I'll go ahead and add that.

What was it again? The address of?

JUDGE YAZIGI:

Record. I was taking notes during the discussion, so that kind of came out of the discussion, so I didn't know if you wanted to include it or not.

MS. GROSNER:

That would -- sure. That would make sense to add that because, yeah.

JUDGE YAZIGI:

Okay. With parents who do not choose to sign up for the e-filing system and that OAH include a proof of delivery with such communication. I just want to make sure I've captured your intent.

MS. GROSNER:

Sure. I just said include proof of service to ensure delivery, but what you said pretty much encapsulates the same thing. So thank you.

JUDGE YAZIGI:

All right. Thank you.

DIVISION CHIEF CASTILLO:

Would any committee member like to second Ms. Grosner's recommendation for ways to consider?

Dr. Herlinda Sandoval?

DR. SANDOVAL:

Yes. I second.

DIVISION CHIEF CASTILLO:

We have a second.

Any discussion on this recommendation by any of the committee members?
Mr. Shaw?

ATTORNEY SHAW:

Should it specify pro per parents as opposed to parents who are represented by counsel?

DIVISION CHIEF CASTILLO:

Ms. Grosner?

MS. GROSNER:

That would probably make sense since it's pretty much about them. So, yes.
That's a good point, Mr. Shaw.

Do I need to read the whole thing again?

DIVISION CHIEF CASTILLO:

No. I think --

JUDGE YAZIGI:

I got it. Thank you. And I'll include mention of self-represented parents.

MS. GROSNER:

Thank you.

DIVISION CHIEF CASTILLO:

All right.

Any other comments on this?

MS. GROSNER:

I just had a -- oh, sorry.

DIVISION CHIEF CASTILLO:

Go ahead.

MS. GROSNER:

I was just going to add, too. There are a significant amount of people that actually don't have access, like computer access, and I just pulled up a couple of things.

Like the Public Policy Institute of California stated 23 percent of low-income households don't have a computing device at home. So it's kind of a significant number. As well, the LA Unified School District estimates that 20 percent of their students lack access to broadband access.

So this is something to consider as well. So thank you for allowing me to mention that.

DIVISION CHIEF CASTILLO:

Okay.

Any other comments on the recommendation for which to consider by members of the committee?

Seeing none, any comments on this recommendation by members of the public?

Pam?

ATTENDEE PAM RAGLAND:

I just wanted to point out one other consideration.

The rules as far as when someone has to respond are different when it's electronic versus mail. And I think a consideration when if OAH is serving things or the attorneys are serving things by electronic -- well, I just saw a case where the attorney, late, sent an email as service after OAH already ruled on something.

So I just wanted to throw that out there that when you have electronic service, you have less time to respond to something; and I think OAH needs to consider, someplace, that if the parent is pro per and they have elected to receive things by email, the deadlines to respond are extended by five days.

DIVISION CHIEF CASTILLO:

Any other comments from the public?

Education Not Litigation?

ATTENDEE EDUCATION NOT LITIGATION:

Thank you.

I just wanted to pass along a message from Tanya Whiteleather that she is raising her hand to speak on this item since the beginning and is not being called on.

So I don't know if there's a problem with the system. I wanted to relay that message on her behalf.

DIVISION CHIEF CASTILLO:

Thank you. I will get her on. If we can have Ms. Whiteleather?

STAFF SERVICE MANAGER BELL:

Judge Castillo, I will pull up her name and allow her to speak. I'm noticing the hand keeps going up and down, so I'm not sure if there's some tech problems here.

Okay, Ms. Whiteleather, you may speak.

MS. WHITELEATHER:

Thank you. I had my hand up during the public comment and I put it up and down because nobody seemed to call on me.

The case that was spoken about where the parent -- Judge Mann had to vacate the hearing.

There is a document that's included in a notice that goes out with the first scheduling notice that says, if a parent wants electronic service, they must complete and file a form.

Many parents don't understand that. This parent didn't. She wasn't represented. She didn't file out the form.

OAH had a motion to continue a hearing, went ahead, changed the hearing date, parent was waiting to get something from OAH, something more in mail, and OAH simply sent things electronically and she'd updated her phone.

I understand things happen. I assisted the parent and Judge Mann, very appropriately, vacated the whole hearing after the hearing was held. I assumed it was just an exception because everything happens. Problems occur.

Then, I had a second client who said that OAH was sending things electronically and she contacted Alicia (phonetic). And Alicia said, oh, three years ago in another case, you gave us your email. She never filed a form. She never said anything. And the parent has never given written permission.

So I've had to adhere -- it appears that other people have had more. Couple that with the fact that many districts are serving by FedEx, which is a lob on the front porch. We have a huge problem with due process.

So this is a given notice to parents that in the OAH documents, you need to file to give consent to electronic service, but it's not being followed by OAH.

And it is a denial of due process. And in that second case, I can't even get the proofs of service from OAH. I've asked them to show me how they serve the parent and nobody will give me the documents.

Thank you.

DIVISION CHIEF CASTILLO:

Okay.

Any email comments?

STAFF SERVICE MANAGER BELL:

No written comment.

DIVISION CHIEF CASTILLO:

With that, we'll take a vote on Agenda Item 17.

Daniel Shaw?

ATTORNEY SHAW:

Yes.

DIVISION CHIEF CASTILLO:

Jessica Little?

MS. LITTLE:

Yes.

DIVISION CHIEF CASTILLO:

Kathleen Anderson?

ATTORNEY ANDERSON:

Yes.

DIVISION CHIEF CASTILLO:

Mindy Luby?

MS. LUBY:

Yes.

DIVISION CHIEF CASTILLO:

Marianne Grosner?

MS. GROSNER:

Yes.

DIVISION CHIEF CASTILLO:

Julie Lewin?

ATTORNEY LEWIN:

Yes.

DIVISION CHIEF CASTILLO:

Aileen Herlinda Sandoval?

DR. SANDOVAL:

Yes.

DIVISION CHIEF CASTILLO:

Joshua Walden?

ATTORNEY WALDEN:

Yes.

DIVISION CHIEF CASTILLO:

Sue Singh?

MS. SINGH:

Yes.

DIVISION CHIEF CASTILLO:

Unanimous on both committees. OAH will respond to the recommendation.

On to Agenda Item 18 of 23. Recommendation that OAH reinstate the practice of automatically setting mediation dates in scheduling orders.

Background. Other than expedited due process hearing requests involving disciplinary matters or requests filed to immediately change a student's placement because of shortened hearing and decision timelines, OAH does not set a mediation date when it sends out the scheduling order with the initial Prehearing Conference and hearing dates.

And if parties wish to request a mediation, they will have to jointly make the request for mediation date and follow that with OAH.

Ms. Grosner, I think this was your agenda item.

MS. GROSNER:

Yes, Your Honor. And just, I'm going to probably reiterate what you said, but yeah, OAH used to include mediation dates in scheduling orders as part of the due process.

But now there are no mediation dates on the scheduling orders. So if a parent wants to do the mediation as part of that, they need to coordinate with the school district by filing a joint request with the dates and scheduling with OAH.

And this process is just very cumbersome for the parents that are doing -- the unrepresented parents, I should say. And a lot of them don't even know that this is an option because it's not mentioned on the scheduling order. So I wanted to make a recommendation on this.

DIVISION CHIEF CASTILLO:

And I'll provide further information.

For parents who are self-represented, OAH, based on prior -- this came up in a prior committee a few years ago, agreed to, and it does, call parents and ask if we haven't gotten anything about mediation.

If they wish to explain the mediation process, the case manager will call and ask if the parent wishes to participate in mediation. If they do, for them to reach out to the school district and to submit a mutually agreed upon date or dates to have the mediation.

Any other comments on this agenda item from members of the committee?

Kathleen Anderson?

ATTORNEY ANDERSON:

I think there's an alternative concern that if the mediation date is set and it's in the scheduling order, it suggests or could be interpreted by an unrepresented parent as it's required, and mediation is not required.

And I'm also concerned about scheduling. Back in the day, when mediation dates were scheduled by OAH, there was a lot of having to reschedule everything because the dates didn't work. So I think that's a secondary concern.

I think the other concern is how to assure that the unrepresented parent won't think that they must mediate. Because I've had parent attorneys tell me they don't want to mediate, they know it's voluntary, and they just, you know, want to preserve that right to say no.

DIVISION CHIEF CASTILLO:

Daniel Shaw?

ATTORNEY SHAW:

More of a question to the OAH.

I know several years ago that the OAH, when there was a pro per case, would typically assign the parent with somebody who could help answer questions or assist, even in formulating their claims or understanding the process.

Is that something that still happens?

DIVISION CHIEF CASTILLO:

We do have the mediator assistance to assist people in the filing of due process complaints. They do not provide legal advice, but they provide general assistance and that is on our website.

So a parent, even before filing a due process case, can request mediator assistance in filing the due process action.

And for self-represented parents, in which we grant what we call a notice of insufficiency in finding their complaint fully or partly insufficient, and which requires them to file amended complaint, we put in language in those orders how they may seek mediator assistance, which is different than the mediation process.

But we do provide that service, and that is on our website, how to contact our office to get that. And then we assign somebody to assist the parent.

Any other comments on this agenda item from members of the committee?

Seeing none, to the attendees. Pam?

ATTENDEE PAM RAGLAND:

Okay. Thanks again, Pam Ragland. I help the parents. I just dealt with this. I think there's a couple of issues here.

One is if the parent files due process, they don't necessarily understand that they first have the right to a resolution session and that they can hold that. Very often, I'm seeing the schools say, oh, we'll just waive that and go straight to mediation, but the parents don't necessarily know how to do that either.

So yes. It is true that OAH is assigning someone to say, hey, do you want mediation? But let me explain how that goes. They'll say, do you want mediation? There's a form on our website.

So the parents are still left to try to figure this out. I really think that in the scheduling order, what ought to happen is that it should say you have the right to a

resolution session prior to any mediation. If you have filed this due process, you have that right and you can keep that right, at which the attorney is not supposed to attend, but I see them just attend without asking the parents.

And then if you would like mediation, we have already scheduled the date. If you would like to change the date of mediation, include a form in the packet so that it's easier for the parents. Because this -- you know, even a process flow.

I mean, this entire process -- I have parents I work with who are attorneys and they don't understand this process because it's not the same.

So I think it is confusing and anything that we can do to help the parents understand the process better is just going to help everybody, even the school districts. It's going to reduce your cost of litigation because there's not going to be things happening that get undone and so forth.

So that's my comment.

DIVISION CHIEF CASTILLO:

Education Not Litigation?

ATTENDEE EDUCATION NOT LITIGATION:

Thank you.

Well, I think Pam's comments were right on and she offers a great solution. I think this new practice of eliminating the automatic notice of a mediation just adds another roadblock for parents to access the process.

And in regards to the comment by FFF representative, Anderson, about the confusion that parents don't know that it's voluntary. It's very clear in the forms and in the OAH website that it is a voluntary process.

But before we even get to that point, we have to get to the part of notifying parents that mediation is an option.

And so, I mean, from the OAH perspective, this actually may eliminate hearings if parents knew that mediation was an option. Because I think the goal should be to try to resolve disputes between districts and parents to the maximum extent possible and not to drag it out through a hearing.

So from the OAH perspective, OAH should welcome procedures that will eliminate hearings and cause an extra workload for OAH and an extra expense to the state. After all, one of the missions of the Department of General Services, of which OAH is a division, is to make sure that state resources are well spent.

So I would support this recommendation and reinstate the practice of scheduling the mediation, and like Pam said, then the district and the parent could work on the scheduling part. But to eliminate it all together just adds, again, another layer of secrecy. I had no idea that OAH has a mediator program and that a mediator is available to assist. And I've been around for a long time. And I filed in pro per, and I was never told or had a phone call about the mediation option being available.

So this is very important for parents, and we should try to make the system more accessible to parents rather than making it more difficult for parents to access.

Thank you.

DIVISION CHIEF CASTILLO:

Youtoomovement?

ATTENDEE YOUTOOMOVEMENT:

Good afternoon, again.

On behalf of the Special Education community, that OAH is transparent and assists parents making informed decisions. Based on my experience, I have tried for several years to work collaboratively with my district. However, the district has the belief that they can easily fund and easily move into litigation and deny parents and their students' rights.

I believe OAH should be very impartial and try, most of the times, to assist parents that are low income or have no means to obtain legal representation. is a great need for a lot of information in native, languages like Spanish.

I'm not certain if all this information is available in all languages, but I would like OAH to, first of all, be transparent and to assist to the maximum extent low-income parents and parents that don't know about litigation or due process.

DIVISION CHIEF CASTILLO:

Thank you.

Any email comments?

STAFF SERVICE MANAGER BELL:

No email comments for this agenda item.

DIVISION CHIEF CASTILLO:

So regarding Agenda Item 18, is there a recommendation by any member of the community for OAH to consider?

Ms. Grosner?

MS. GROSNER:

Yes, Your Honor.

I'd like to make a recommendation that OAH reinstate the practice of automatically setting mediation dates in the scheduling orders.

DIVISION CHIEF CASTILLO:

Is there a second?

Seeing no second, this agenda -- there is no recommendation from the committee. So OAH will move on to the next agenda item.

Before we do, we're scheduled to end in 10 minutes at 1:00 p.m. I'm going to ask members of the committee if they want to go on past 1:00 p.m. We do have the interpreter until approximately 3:00 p.m.

So if we don't finish the agenda items today, then these agenda items will carry over. We'll do 19, but then the rest will carry over to our regularly scheduled October meeting.

So, members of the committee, would you like this meeting to end after the next agenda item or to continue on until approximately 3:00 p.m.?

Ms. Anderson?

ATTORNEY ANDERSON:

I can stay.

DIVISION CHIEF CASTILLO:

And we'll still need at least a quorum from one of the committees to vote. So if we only have a quorum from one, then the other one, they can participate, but the only votes will be from the committee, which we have the quorum of.

ATTORNEY SHAW:

I can stay. I don't know if we're taking a vote, but I --

DIVISION CHIEF CASTILLO:

I'm just asking for the committee -- not to vote, but just asking. If anyone can stay -- let me put in the opposite.

If anyone can't stay past 1:00 p.m., if they can raise their hand.

UNIDENTIFIED SPEAKER:

I can stay until about 2:30. That's close enough.

DIVISION CHIEF CASTILLO:

Okay.

Mr. Walden?

ATTORNEY WALDEN:

Your Honor, I'm not available to stay after 1:00 p.m.

DIVISION CHIEF CASTILLO:

Okay.

So we'll still have a quorum in Southern California. We'll have four people available after 1:00 p.m. in Southern California. So we'll still have a quorum for both.

Ms. Grosner?

MS. GROSNER:

I am actually not sure if I can stay because I have someone watching my kid until 1:00 and it might be challenging for me. I can do my best.

DIVISION CHIEF CASTILLO:

Okay.

So since we'll still have a quorum in the North past 1:00, we can go.

What I'm saying right now is why don't we take a 10-minute break?

Ms. Grosner, if you can find out.

Then, we'll come back at 1:05 p.m. and we'll continue on with the next agenda item, which is Agenda Item 19.

With that, we're on break.

(Off the Record)

DIVISION CHIEF CASTILLO:

Ms. Grosner, you were --

MS. GROSNER:

Yes. Actually, it would be really challenging for me to be able to stay, so I have to actually leave.

DIVISION CHIEF CASTILLO:

Okay. Before you go, thank you for your participation.

So we do not have a quorum in the South, when Ms. Grosner leaves. There will be three members, not a quorum. We need four for quorum.

We still have four members of the North with Ms. Anderson, Mr. Shaw, Ms. Little, and Mindy Luby.

And therefore, we can continue. They may vote and make recommendations on behalf of Northern California.

The three remaining Southern -- oh, Mindy Luby, you have your hand up?

MS. LUBY:

Sorry. Having massive issues here.

So I have a time constraint of 1:15. Are we -- do we have a thought -- sorry. I was in the restroom when we just came back. I heard you guys talking, so I ran back.

But do we have a thought on the ultimate adjourn?

DIVISION CHIEF CASTILLO:

If you leave at 1:15, we will not have a quorum for either committee. And what will end up happening is we can discuss the agenda items, but there can be no recommendation.

So, therefore, it would be up to the committee to decide whether or not for Agenda Items 19 through 23 to hold those over to the October meeting.

MS. LUBY:

I have a hard stop at 1:15. I have children I have to go get, who are in ESY.

DIVISION CHIEF CASTILLO:

Right. Okay.

So I think what we'll end up having -- we won't have a quorum at 1:15 for either committee. We can discuss the items, but we can't make -- but the committee can't make any recommendations for OAH to consider.

So if people want to discuss, but not be making recommendations, that's allowable.

Mr. Shaw?

ATTORNEY SHAW:

My suggestion would be, if it is possible, to take public comments so we can hear any concerns that might generally come from the public for the last short period of time we have.

DIVISION CHIEF CASTILLO:

Okay.

ATTORNEY SHAW:

Then, we can address these issues at the next advisory committee meeting.

DIVISION CHIEF CASTILLO:

Okay. That is perfectly acceptable. We don't need a quorum for the public comments.

So with that, for agenda items -- and this will not prohibit any member of the public from addressing any of the agenda items during the public comment period. You'll just be, as noted earlier, three minutes. So, you can make comments as to any agenda item or any general comments that you wish to make during that time.

So I'm going to summarize. For the items that before, which is 14, 15B, 16 and 17, OAH will respond to those recommendations. The other agenda items will carry over to the October 20th meeting. We'll also take, from the chairs, any other agenda items people want to add with the acknowledgement of the time constraints.

With that, we'll move to the public comment section. So any member of the public who wants to make comments on any of the agenda items or general public comments, this is your time for that.

So Ms. Whiteleather?

MS. WHITELEATHER:

As before, my hand is lowered. I don't have my hand up.

DIVISION CHIEF CASTILLO:

It indicates in our system, so I'm not sure why.

MS. WHITELEATHER:

Okay. It says, "Lower hand on mine." Thank you.

DIVISION CHIEF CASTILLO:

Okay.

Education Not Litigation?

ATTENDEE EDUCATION NOT LITIGATION:

Thank you. And thank you, Mr. Shaw, for considering the members of the public.

I have some general public comments.

First of all, I don't think OAH should wait until October to continue the items that were on this agenda. OAH in the past has had meetings in between when meetings have gone long. I mean, this is a pretty packed agenda. So I think what needs to happen is there should be another meeting between now and before October to continue the agenda.

Additionally, I wanted to reiterate previous comments that we have made as members of the public that OAH should definitely look into verification of when districts are filing for due process or engaging in due process that, indeed, they have the authority of their school boards as required by the Brown Act.

What we're seeing happening in the West End SELPA is that district boards are not even aware that students are being taken to due process. They're not being notified. And, literally, when attorneys are standing before OAH saying they're representing districts, the district is the governing board and they have no idea.

So just because district attorneys are saying they have a notice of representation, which they're signing themselves, they're misrepresenting that to OAH and OAH needs to engage in that.

We are certainly going to be bringing it up to the California Department of Education because this is a big issue that is leading to unnecessary litigation by law firms that profit from the due process system and from engaging in litigation.

Finally, I encourage all my colleagues in the parent community and the advocacy community for students to file complaints against OAH when OAH violates federal law, state law, and its own rules.

Thank you.

DIVISION CHIEF CASTILLO:

Attendee Pam?

ATTENDEE PAM RAGLAND:

Hi, everyone. Pam Ragland. Thanks for the time to comment and thanks for letting the public participate in our public process. I have a couple comments.

I have one concern that disability rights for parents are not being adhered to. So I had a case where the parent, I realized in the middle, of course, I can't help them because I'm an advocate, which I disagree with that that attorney general opinion, anyway, is not binding. And now advocates are made where they can't even speak in mediation, and I disagree with that. So I just want to throw that out there because it's not a binding opinion. It's not compliant with IDEA.

Then I had a case where a parent was obviously disabled and could not hear. And we stopped the hearing and asked for accommodation for the parent. And the hearing officer refused to provide the accommodation.

This is a huge violation of due process and I really, really wanted that parent to take that case to a federal case, but he didn't because -- you know, this is a concern.

So not only are parents' rights being violated, that their assistance that's provided for an IDEA is not being provided to them. But now judges are not only really siding with the schools, but not even listening to the parents when they have a disability.

So I really think that OAH needs a better way to handle that.

And then as far as the other comments about making sure that everybody follows the rules and the law. You know, California risks -- we have some laws that are not compliant. We have some processes that are not compliant. We risk federal funding if we don't make sure that we have a process to follow the law. So I really just want to encourage that there's that check and balance someplace.

Thank you for the comments.

DIVISION CHIEF CASTILLO:

Thank you.

Deborah Cam? You're unmuted, Ms. Cam.

ATTENDEE DEBORAH CAM:

Okay. Thank you. There I am. Okay. Thank you very much.

Yes. I actually wanted to comment on Item Number 19, which we haven't gotten to yet. But I've been, you know, holding on here for over three hours because this is something that I wanted to discuss.

It refers to the evaluation forms and that they're -- I guess the evaluation forms have been discontinued for some reason. And I'm very concerned about that because in the OAH/CDE interagency agreement there is a section called, "Evaluation Forms," at

Section 3.11, in which OAH has agreed to provide evaluation forms to the CDE. In fact, it says that OAH "shall provide evaluation forms for all parties of mediation and due process hearings" and "shall" provide those or summaries to the CDE.

So if OAH is no longer providing those evaluation forms, then they're in violation of the OAH/CDE interagency agreement.

And again, as far as I know, everyone at OAH are attorneys and judges. And why on earth are we having so many violations of law, violations of agreements, when you are there to uphold the laws?

And how can the public have any confidence in OAH when OAH is even abiding by their own rules and agreements and laws? I really don't understand that.

And I'm also wondering if part of this has to do with the Gibson complaint because a few years ago I actually requested all of the comments on the evaluations and Bob Varma refused to provide that information to me.

In an internal email, he actually said he removed the comments. He said, I removed the comments rather than digging through every comment to determine what part could or should be redacted.

That is not his job. He is not supposed to be removing comments and removing information rather than following the California Public Records Act and actually seeing what information needed to be redacted or not. And this was a part of a complaint by Margaret Gibson against Bob Varma and OAH. And there are a lot of very concerning allegations in that complaint.

And if you are now not even providing the evaluation forms, like I said, now you're in violation of the interagency agreement. I am just trying to figure out what on earth is going on at OAH. You are supposed to be upholding the laws and being the impartial arbitrator to help in disputes, but if you're not --

STAFF SERVICE MANAGER BELL:

Three minutes is up.

DIVISION CHIEF CASTILLO:

Youtoomovement?

ATTENDEE YOUTOOMOVEMENT:

Good afternoon, again. This is Youtoomovement on behalf of or representing Inland Empire Special Education Community.

I am alarmed to hear that OAH is not following the law, following their own procedures, and being in assistance to our local community members. I am very, very much alarmed because you are the ones that need to set the example.

Well, no wonder districts ignore parents. No wonder CDE, at times, are in favor of districts. It is very alarming how all of these agencies are working together and most of the times not following the law.

So I'm going to request politely that OAH ensures you follow your own policies, you follow federal and state law.

Thank you for this opportunity, again.

DIVISION CHIEF CASTILLO:

Ms. Whiteleather, your hand is showing up on our system. I just want to confirm whether or not your hand is raised or not.

MS. WHITELEATHER:

Thank you. And mine says -- I don't know if it's yours or mine. Mine says lower hand. Thank you for checking.

DIVISION CHIEF CASTILLO:

Okay. Thank you.

With that, the June 16th meeting is concluded. Our next meeting will be on October 20th, 2023. It will be through Zoom. We will be issuing the responses in a timely fashion well before then.

Oh, I'm sorry.

Ms. Bell, do we have any email comments?

STAFF SERVICE MANAGER BELL:

Yes, Judge Castillo, if I may. We have a few I'd like to read.

DIVISION CHIEF CASTILLO:

Okay. Thank you.

STAFF SERVICE MANAGER BELL:

First written comment is from "GmailArias." It says, "We request that OAH publicize all orders and sanctions on your website."

May I move on to the next one or?

DIVISION CHIEF CASTILLO:

Yes, please move on.

STAFF SERVICE MANAGER BELL:

The next written comment is from "Lisa A. Corr." It reads,

"My name is Lisa Corr, an attorney with Young, Minney, and Corr representing charter schools throughout California. I am concerned based upon the pace of the meeting that I will not be in attendance when general public comments are requested, not attached to a specific agenda item. In the event that I am not in attendance, please share the following comments.

The contract between OAH and CDE is often used as a basis for why OAH does or does not take an action recommended by the committee. I am curious as to what public comment is taken into consideration in the development of that contract. I believe it is coming up for renewal at the end of this month, and I would

recommend that the following items be incorporated into the renewal contract, and if not included as recommendations for future agenda items for this committee.

One, prohibit the reassignment of judges after the Prehearing Conference.

Two, commit to earlier provisions of the hearing transcript upon party request.

Three, commit to a consistent timeline for orders in response to motions.

Four, allow for joint stipulation by the parties for a second continuance.

I believe based on my conversations with attorneys who represent school districts and attorneys that represent parents that there is strong support from all for resolution of these items. Thank you, Lisa Corr."

DIVISION CHIEF CASTILLO:

Any other? The next comment, if there is some?

STAFF SERVICE MANAGER BELL:

Yes. The next public comment written from Mary Kellogg.

"My name is Mary Kellogg and I represent Los Angeles Unified School District. Please share the following comments.

Based on information I have heard from both parent and school attorneys, I would recommend that the following items be addressed as recommendations for this committee.

One, prohibit the reassignment of judges after the Prehearing Conference.

Two, commit to earlier provisions of the hearing transcript upon party request.

Three, commit to a consistent timeline for orders in response to motions.

Four, allow for joint stipulation by the parties for a second continuance.

Five, when decisions or orders are appealed, the appeal and or outcome should be noted on OAH's published version of the underlying decision and or order.

Thank you, Mary Kellogg."

I do have one more written comment. This is from --

DIVISION CHIEF CASTILLO:

Please proceed.

STAFF SERVICE MANAGER BELL:

Thank you. This is from Dee Anna Hassanpour. It says,

"My name is Dee Anna Hassanpour. I am an attorney who represents school districts. I would like the OAH to address why it doesn't recognize the Juneteenth federal holiday and schedules Prehearing Conference and mediations on that holiday. Thank you."

No further written comment.

DIVISION CHIEF CASTILLO:

Okay.

With that, this advisory committee meeting is concluded and the next meeting is scheduled for Friday, October 20th. OAH will be considering about whether or not to lengthen that meeting in order to get through the agenda items and so there'll be information sent out to the committee members about that and to the members of the public.

Mr. Shaw?

ATTORNEY SHAW:

Quick procedural question.

We'll still be given the opportunity to include additional agenda items or amend what we've already submitted?

DIVISION CHIEF CASTILLO:

Yes. So if there's something that you want to take off for whatever reason, you may say, Agenda Item X, please, remove that from the agenda because I don't want to hear it. Or could you please amend Agenda Item X to say the following?

ATTORNEY SHAW:

All right.

DIVISION CHIEF CASTILLO:

And then to add any other agenda items.

ATTORNEY SHAW:

Thank you.

DIVISION CHIEF CASTILLO:

Any other further questions from the committee?

With that, the meeting is concluded. You may turn off the recording and end the meeting.

(Recording Ends)

MEETING CONCLUDED

CERTIFICATE OF TRANSCRIPT

I, Michelle Busby, hereby certify that this transcript is a true, complete, and accurate transcription of the recording of the Advisory Committee meeting that took place on June 16th, 2023, Office of Administrative Hearings, via videoconference. This is

the original transcript and the statements that appear in this transcript were transcribed by me to the best of my ability. Executed under penalty of perjury in Cullman, Alabama on the 25th day of July, 2023.

Michelle Busby
Transcriber
Northern California Court Reporters