

ADVISORY COMMITTEE MEETING

6/21/24

OFFICE OF ADMINISTRATIVE HEARINGS' RESPONSE TO COMMITTEE RECOMMENDATIONS

AGENDA ITEM 12:

Recommendation:

It is recommended that either petitioner or respondent will inform the OAH in a due process complaint and mediation-only request that a participant requires an interpreter and in what language. It is recommended that with respect to witnesses that information shall be in petitioner's or respondent's prehearing conference statement. In the event of a parent who is self-represented, and English is not their primary language, the local educational agency shall notify OAH of the need for an interpreter.

OAH Response:

OAH Model Due Process Hearing Complaint and Mediation-Only Forms have a line to include the need for language assistance. It is the obligation of the parties to inform OAH as soon as possible that a language interpreter is needed for a mediation or hearing to allow OAH sufficient time to secure an interpreter. OAH does not have statutory or regulatory authority to order a local educational agency to notify OAH of the need for an interpreter, but OAH welcomes such notification from an agency.

AGENDA ITEM 13A:**Recommendation:**

It is recommended that OAH update the form for a school district or other public agency to request a mediation-only, proof of service, to reflect the option to serve a party via email.

OAH Response:

OAH is in the process of updating the proof of service for the mediation-only, request for hearing only and request for mediation and hearing forms, which will include personal service, overnight delivery service, service by facsimile and email service.

AGENDA ITEM 13B:**Recommendation:**

It is recommended that unrepresented educational rights holders are personally served with due process documentation and requiring the signature of the educational rights holders to ensure receipt, unless the educational rights holder has consented to other means of communication.

OAH Response:

OAH complies with Title 5, California Code of Regulations, section 3083, subdivision (b) for service of documents. This regulation does not require personal service or the signature of receipt of unrepresented educational rights holders for documents related to a due process proceeding. OAH will investigate the possibility and associated costs of serving documents by US Priority Mail for overnight and two day delivery.

AGENDA ITEM 14:

Recommendation:

It is recommended that the email OAH sends parties informing parties that there is a document to view include the case number and the title of the document.

OAH Response:

OAH will add the document name to the message in the email informing the person that a document is ready for download in the Secure File Transfer, SFT, system. OAH has requested that the Department of General Services Enterprise Technology Solutions division investigate if SFT can be configured to place the document name in the email subject line, which presently just has the case number.

AGENDA ITEM 15:

Recommendation:

It is recommended that if a parent is being advised by a lay advocate in an administrative hearing that the decision reflect that.

OAH Response:

OAH will note in its decisions if a Parent was accompanied at hearing by an individual "with special knowledge or training relating to the problems of individuals with exceptional needs." (Education Code section 56505(e)(1).)

The committee did not reach Agenda Items 16, 17, 18, and 19.

Agenda Item 16:

Recommendation:

That OAH provide written criteria being used to consider requests for in-person mediations and hearings on a “case-by-case basis” and set a date for discussions regarding in-person mediations and due process hearings. (Item from Southern CA Member Kamm)

AGENDA ITEM 17:

Recommendation:

That a contact person be named for OAH Advisory Committee members rather than the generic OAHSEOps@dgs.ca.gov email address. (Item from Southern CA Member Kamm)

AGENDA ITEM 18:

Recommendation:

That OAH provide a written description of the process by which OAH Advisory Committee recommendations are accepted or rejected, including the specific staff involved and the criteria used – or provide the specific facts showing that the public interest in not disclosing the process outweighs the public interest of disclosure of the process. (Item from Southern CA Member Palmer)

AGENDA ITEM 19:

Recommendation:

That OAH publish each ALJ's procedures for due process hearings on the OAH website. (Item from Southern CA Member Mendez)