

OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
ADVISORY COMMITTEE

SUMMARY OF JUNE 18, 2021 COMMITTEE MEETING

WELCOME

Introduction and statement of purpose of Advisory Committee by Deputy Director and Assistant Chief Administrative Law Judge Bob Varma. Administrative Law Judges are often referred to as ALJs. The Office of Administrative Hearings is often referred to as OAH.

EXPLANATION OF MEETING FORMAT AND OVERVIEW OF MEETING PROCESS

Meeting format explained as occurring by livestream of a Microsoft Teams meeting. Discussion amongst committee members occurs first, then agenda items opened to public comment via livestream comment feature. Time delay in broadcast to livestream described and to be accounted for in the pause after each agenda item to allow for livestream delay to “catch up” and allow for public comment to be included for the relevant agenda items. Discussion, vote counting process and recommendation requirements explained.

INTRODUCTION OF COMMITTEE MEMBERS AND OAH STAFF IN ATTENDANCE

OAH participants: Deputy Director Bob Varma, Presiding ALJ Joy Redmon, Jennifer Saffold, Anna Brown, Trinity Dorantes. Committee members in attendance for northern California: Rochelle Hooks, Danielle Christy, Elizabeth Schwartz, Paula Senigar, and

Ramaah Sadasivam - quorum established. Northern California Committee Member Meghan Magee absent. Committee members in attendance for southern California: Dr. Aileen Herlinda Sandoval, Elaine Kooima, Eric Menyuk, Lindsey Steinholt, Marianne Grosner, and Victor Duran - quorum established.

SPECIAL EDUCATION DIVISION STAFF AND ORGANIZATION CHANGES

New staff in Los Angeles office: Samantha Patino. Organizational changes: Marian Tully now the Division Chief ALJ, and Margaret Gibson now a Presiding ALJ.

DISCUSSION OF MEMBER TERMS AND MEMBER EXPECTATIONS

No current openings. Committee members in attendance serving until October 2021 meeting. Expectations of members reviewed.

SELECTION OF CHAIR FOR AGENDA COLLECTOR

Member Marianne Grosner volunteered as the southern California chair and Elizabeth Schwartz volunteered as the northern California chair for the collection of the agenda items for the October 2021 Committee Meeting.

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

Responses to October 2020 recommendations were posted to the OAH website and provided to the Advisory Committee members. Members asked if there were any items they wished to discuss pertaining to OAH's responses. Member Grosner requested to discuss OAH's response to reconsideration of prior recommendation that OAH verify districts' standing to participate in due process and school board approval. Deputy

Director Varma stated the topic is related to Agenda Item 21 and asked if discussion could be held on this topic for that agenda item. Member Grosner agreed.

AGENDA ITEM #13: STATUS OF VIRTUAL AND IN-PERSON MEDIATIONS AND HEARINGS

Members stated this agenda item was included with the intention to gain more information on what OAH's future plans are regarding virtual events.

LIVESTREAM AUDIO DISCONNECT

Livestream audio disconnected at 15:25 minute mark of the meeting. Committee was notified and the discussion was paused to resolve technical issues. Audio stream reestablished at 34:47 minute mark and meeting resumed.

RESUMED - AGENDA ITEM #13 A AND B: STATUS OF VIRTUAL AND IN-PERSON MEDIATIONS AND HEARINGS

While audio was disconnected, issue was raised whether all agenda items would be addressed during the scheduled time of this meeting. Determined that if all agenda items not reached by end of scheduled time, Committee would discuss how to proceed. OAH is continuing to explore alternatives to Microsoft Teams to host virtual events. The issue of lack of simultaneous interpretation ability in the Microsoft Teams platform was raised and Deputy Director Varma acknowledged that it is something that OAH is specifically seeking to address in the exploration of alternatives. Issue was raised whether families have been surveyed regarding their virtual hearing and mediation experience or simultaneous interpretation. Current survey process is the same as has been used previously and not specific to virtual events. Public comments read by moderator.

AGENDA ITEM #13 C: UPDATING AND ACCESSING OAH SPED ORDERS ON WEBSITE INCLUDING SEARCH FUNCTION OF DATABASE

OAH is aiming to have Orders posted to the website by July 2021. OAH is also working to improve the searchable database. Public comment read by moderator.

AGENDA ITEM #14: STATUS REPORT OF SELF-HELP CENTERS MENTIONED AT THE LAST ADVISORY COMMITTEE MEETING

OAH has been looking into alternative ways to provide access to parties to hearings and mediations in addition to in-person self-help centers prior to the pandemic. This effort is continuing, however OAH still provides all available assistance to any parties that inform OAH of needs accessing due process or proceedings in their cases. Public comment read by moderator.

AGENDA ITEM #15: TIMELY POSTING OF OAH ADVISORY COMMITTEE MEETING TRANSCRIPT TO OAH WEBSITE

Advisory Committee agenda items are comprised of topics related to advising or suggesting procedures with respect to conducting the mediations and due process hearing program. OAH has not posted the transcript of the prior meeting as of the date of the June 2021 meeting. There has not been a standard established as to when the transcript should be posted. Committee discussed and public comment heard.

Member Sadasivam recommended OAH post Advisory Committee meeting transcripts on its website within 30 days of the meeting. Member Grosner seconded. Unanimous votes for yes. OAH will respond to this recommendation.

AGENDA ITEM #16: PUBLIC TO PROVIDE VERBAL AND/OR WRITTEN COMMENTS VIA CHAT DURING THE SPECIAL EDUCATION ADVISORY COMMITTEE MEETINGS

Members put forth that they feel that the public should be able to make verbal comments during the Advisory Committee meetings. Current format via Microsoft Teams only allows for written comment through the "Q&A" feature of the livestream broadcast. Committee discussed and public comment heard.

Member Senigar recommended OAH provide members of the public an opportunity to make verbal comment at the end of each Advisory Committee meeting, not to exceed three minutes per person. Member Sandoval seconded. Unanimous votes for yes. OAH will respond to this recommendation.

AGENDA ITEM #17: TIME FOR PARTIES TO RESPOND TO MOTIONS

OAH's website states that parties should submit a response to motions within three days of filing. Committee discussed and public comment heard.

Member Schwartz recommended OAH wait three business days before issuing an order on a non-urgent motion in accordance with its policy posted online unless the responding party has filed a response earlier than the expiration of the three business days. Member Hook seconded. Unanimous votes for yes. OAH will respond to this recommendation.

AGENDA ITEM #18: HALF-DAY MEDIATIONS

There is interest in the ability to request half-day mediations. Currently half-day mediations are only standard in Los Angeles Unified School District involved cases due to

the volume of cases that involve the district. Other mediations and scheduling are handled on a case-by-case basis through the calendaring process typically by the Presiding ALJ. Committee discussed and public comment heard.

Member Schwartz recommended OAH make half-day mediations available in all cases if requested by all parties. Member Menyuk seconded. Unanimous votes for yes. OAH will respond to this recommendation.

AGENDA ITEM #19: PROCESS AND TIMING FOR ASSIGNING ALJS TO DUE PROCESS CASES

Interest expressed to have ALJs assigned at the opening of a case so that all motions and activity would be handled by the same ALJ. OAH assigns ALJs as the case approaches hearing with many considerations taken into the calendaring assignment. Committee discussed and public comment heard.

Member Schwartz recommended OAH assign an ALJ to a case as soon as a due process case has been filed to handle all rulings and matters through hearing. Nothing in this recommendation shall prevent parties from exercising their peremptory challenges timely. Member Hooks seconded. Four votes for yes and seven votes for no. This recommendation does not pass.

AGENDA ITEM #20: JUDICIAL ECONOMY CONSIDERATIONS REGARDING MOTIONS TO BIFURCATE

Bifurcation of cases explained as specific issues, typically related to jurisdictional or statute of limitations, which are heard separate and prior to other issues in the case. Interest and possible limitations for more standardized process of determining bifurcating issues presented. Committee discussed and public comment heard.

Member Schwartz recommended OAH establish a procedure to bifurcate jurisdictional issues from substantive issues two to three weeks before the due process hearing on substantive issues. Member Hooks seconded. Three votes for yes and eight votes for no. This recommendation does not pass.

Member Christy recommended OAH collect the following data, separated by type of jurisdictional issue (statute of limitations, residency requirement, etc.). Member Schwartz seconded. Unanimous votes for yes. OAH will respond to this recommendation.

AGENDA ITEM #21: PROPOSED ALTERNATIVES TO PREVENT LAW FIRMS FROM MISREPRESENTING TO OAH THAT THEY HAVE BEEN PROPERLY AUTHORIZED TO FILE FOR DUE PROCESS ON BEHALF OF DISTRICT

Members expressed that they believe there may be instances where school districts are filing requests for due process without school board approval and that disadvantaged students and families are often included in these types of filing requests. Committee discussed and public comment heard.

Member Grosner recommended OAH sponsor or support legislation giving OAH authority to request verification from districts that they have authority to file a due process case. Member Senigar seconded. Five votes for yes and four for no. OAH will respond to this recommendation.

PUBLIC COMMENT

All general comments submitted heard.