

**Office of Administrative Hearings
Special Education Advisory Committee
April 11, 2014 Meeting Summary**

Conduct of Meeting

There was no quorum when the meeting was called to order. The committee members decided to have an informal discussion of the agenda items. The committee informally addressed agenda items 1 through item 3.j. before an additional member arrived and a quorum was reached. At that time, the meeting of the committee began. This is a summary of the official meeting; it does not include a summary of the informal discussion.

1. Welcome and Introduction

1a. *Chair at Each Location:* Special Education Division Presiding Administrative Law Judge Judith Kopec chaired the Northern California section of the meeting. Administrative Law Judge Marian Tully chaired the Southern California section. The meeting was conducted via video conference and was also available as a live webcast.

1b. *Selection of Note-taker at Each Location:* ALJ Theresa Ravandi (Northern California) and ALJ Elsa Jones (Southern California) were note-takers.

1c. *Introduction of Committee Members and Terms of Committee Members:* Advisory Committee members introduced themselves. The following members were absent in Northern California: Loren Soukup, Mary Peitso, and Sam Neustadt. The following members were absent in Southern California: Blanca Siebels, Elias Economou, Zhanna Preston, and Carol Lally. All other members were present.

1d. *Introduction of OAH Staff:* In addition to DPALJ Kopec, Deputy Director Melissa Crowell, PALJ Bob Varma, and ALJ Ravandi attended in Sacramento. ALJ Marian Tully and ALJ Laurie Gorsline attended in Van Nuys.

2. Introductory Comments and Updates

2a, 2.c. *Overview of Advisory Committee Meeting Process and Expectations of Members:* DPALJ Kopec provided an overview of the committee's process for discussing and voting on agenda items.

The expectations of members were discussed. Each member is expected to fully participate by attending all meetings. If a member is unable to attend, the member should contact the Office of Administrative Hearings by either telephone or email. If a member misses two meetings during the course of the member's term, OAH may remove and replace the member. The replacement member may be chosen from the pool of applications that were received the prior spring and who has the same relationship to special education as the removed member.

2b. *Terms of Advisory Committee Members and Application Process:* DPALJ Kopec thanked the committee members attending the last meeting of their term for their service, and encouraged them to reapply. The deadline for applications was June 13, 2014.

2d. *Staff Changes at OAH:* ALJ Joy Redmon recently joined the Special Education Division in Sacramento.

3. **Hearing and Mediation Processes**

3a. *Website Video about Special Education Dispute Resolution at OAH:* Member Miho Murai presented this item.

Committee Recommendation: A recommendation was made and seconded that OAH post a notice on its website that it is preparing a video concerning the special education dispute resolution process. The recommendation did not pass.

3b. *Training of Administrative Law Judges:* Member Miho Murai presented this item.

Committee Recommendation: A recommendation was made and seconded that OAH post on its website a list of all training the administrative law judges received and links to all of the training materials. The recommendation did not pass.

Committee Recommendation: A recommendation was made and seconded that OAH post on its website a list of all training the ALJs received and links to all of the training materials for which OAH has authority to provide access. The recommendation passed.

3c. *Timeline for Posting Decisions on OAH's Website:* Member Miho Murai presented this item.

Committee Recommendation: A recommendation was made that OAH post hearing decisions on its website within one week of being issued. The recommendation was not seconded.

3d. *Information on OAH's Website about Cases that Do Not Go to Hearing:* Member Mary Peitso, who placed this item on the agenda, was not present and did not provide OAH with information about this item. The committee did not discuss this item.

3e. *OAH Audio Recording of Hearings:* Member Beall presented this item. She expressed concern that the ALJs have had technical difficulties with the recording system at hearings. DPALJ Kopec acknowledged that there have been technical problems with the recording system. She explained that OAH is working with the Department of General Services to determine if a recording system is now available that would meet the state's security requirements and be more reliable. DPALJ Kopec explained that it is up to the hearing ALJ to decide whether to allow a party to record a hearing. When a party is permitted to record a hearing, the official record of the hearing is OAH's audio recording. If there is a problem with the official recording, OAH works with the parties to restore the missing portion of the hearing record.

Committee Recommendation: A recommendation was made that OAH consider having court reports at some hearings. The recommendation was not seconded.

3f. *Obligation to Translate Documents:* Member Beall presented this item. She requested clarification of a school district's obligation to translate documents, such as complaints or prehearing conference statements. DPALJ explained OAH's process for translating documents for parties.

Committee Recommendation: A recommendation was made and seconded that OAH provide parents a copy of the scheduling order in their primary language if there is a request for a translator in the initial complaint. The recommendation did not pass.

3.g. *Efficiency of Hearings and Sanctions:* Member Beall withdrew this item from the agenda. The committee did not discuss this item.

3.h. *Mediations and Hearings with Self-represented Parents:* Member Beall revised this item to pertain to mediations with self-represented parents and not hearings. Member Beall requested clarification about whether OAH prevented a school district's attorney from participating in a mediation when a parent is unrepresented. DPALJ Kopec explained that in a mediation held in connection with a hearing, there is nothing preventing one party from having an attorney or representative participate in the mediation when the other party is unrepresented.

3.i. *Consistency of Orders:* Member Beall presented this item. She asked whether OAH had a process for monitoring the consistency of prehearing orders. DPALJ explained that each prehearing order is reviewed by a PALJ to make sure that it was clearly written and legally sound. She also explained that each decision is reviewed twice before it is issued: first by an experienced ALJ and then by a PALJ. The scope of the review is the same as an order. The judicial independence of ALJs is protected throughout the review process.

3.j. *Subpoena Process in Lieu of Discovery:* Member Beall presented this item. Member Beall expressed concern about the squashing of subpoenas duces tecum requesting production prior to a hearing. Because there is no discovery in special education cases, she believed this would conflict with the five-day disclosure requirement in the Education Code.

3.k. *Public Outreach:* DPALJ Kopec announced that OAH has resumed providing an outreach program concerning special education disputes. OAH is working with Area Boards interested in having a presentation. Organizations that are interested in having an OAH presentation should contact DPALJ Kopec.

Committee Recommendation: A recommendation was made and seconded that OAH post the PowerPoint presentation used in its outreach program on its website. The recommendation passed.

3.l. *Update about Electronic Filing of Documents:* DPALJ explained that there are technical issues that are delaying the implementation of electronic filing of documents. Once electronic filing is implemented, OAH will post information on the website and distribute it through its email list.

4. Public Comments

Members of the public attending the meeting and participating through the webcast provided comments. A member of the public expressed concern that an Area Board made OAH's outreach presentation available to only one school district. She also expressed the need for clarification regarding the participation of advocates in mediations not associated with a hearing. A member of the public encouraged the loosening of any restriction on representatives participating in mediations in order to resolve cases before a hearing.

A member of the public suggested that OAH allow a party to record a hearing and not leave it up to the ALJ's discretion. He also commented on a school district's obligation to provide documents in the person's primary language, and criticized an ALJ's order in a specific case.

A member of the public asked about OAH's process for assigning ALJs to prehearing conferences and hearings. A member of the public stated that the special education community advisory committees should sponsor an OAH outreach presentation.

5. **Tentative Date of Next Meeting**

The tentative date for the next meeting is Friday, October 10, 2014.

6. **Adjournment**