

**Office of Administrative Hearings
Special Education Advisory Committee**

OAH Response to Recommendations from May 11, 2011 Meeting

The Office of Administrative Hearings (OAH) Special Education Advisory Committee met in a joint meeting on May 11, 2011, in Los Angeles and Sacramento. The meeting was conducted via videoconference and was available to the public through a webcast accessible on OAH's website. The joint meeting followed the same agenda. During the course of the meeting, the Committee voted to make several recommendations to change or improve OAH's processes. After reviewing and considering the recommendations, OAH provides this response:

Request to Unexpedite Hearing

The Advisory Committee recommended that OAH allow parties to present arguments about whether a matter that has been scheduled as an expedited hearing should be instead scheduled as a regular, non-expedited hearing.

OAH agrees to continue this current practice. A party may file a motion, or the parties may file a stipulated motion, to "unexpedite" a matter. OAH will continue to consider the arguments raised in the motion and response, apply the law to the specific facts, and issue an order.

Update the List of Free or Reduced Cost Assistance

The Advisory Committee made three recommendations in this area. First, the Advisory Committee recommended that OAH update the list of free or reduced cost attorneys and advocates to include non-profits and other agencies that provide free or low-cost services in special education matters. Second, it recommended that the list explain that free services are available in certain circumstances. Finally, the Advisory Committee recommended OAH not include anyone on the list without consent and without input about the information provided on the list.

OAH's contract with CDE and Education Code section 56502, subdivision (h), requires that OAH maintain "a list of persons and organizations within the geographical area that can provide free or reduced cost representation or other assistance in preparing for the due process hearing. The list shall include a brief description of the requirements to qualify for the services. [OAH] shall have complete discretion in determining which individuals or groups shall be included on the list." OAH posts the list on the Special Education Division's website. Also posted are instructions for those interested in being on the list and an application.

OAH includes on the list all persons and organizations that provide the basic information on the application and certify under penalty of perjury that the person or organization provides free or reduced cost representation or other assistance within the meaning of Education Code section 56502, subdivision (h). All of the information included on OAH's list is provided by the applicant. The following statement is included on OAH's website and on the front page of OAH's list:

“OAH is required to maintain a list of free or low cost attorneys and advocates and make that list available to the public. The attorneys or advocates listed on this list self certify that they are free or low cost. You should contact the individual attorney or advocate and determine what free or low costs services they provide. OAH does not represent that the individuals placed on the list offer free or low costs services. It is important that if you choose to use the list that you contact the attorneys and advocates to discuss their fees.”

OAH instructs applicants to submit a new application if there is a change in the name, address or phone number of the organization or person.

OAH responds to the specific recommendations as follows. First, OAH's list includes non-profits and other agencies that provide free or low-cost services in special education matters that submit applications and provide the required certification. OAH will continue this practice.

Second, OAH declines to adopt the recommendation that the list specifically state that free services are available under certain circumstances. The description of the list provided on the website and the proviso included on the front page of the list correctly and adequately describe the scope and limitations of the list. Since each individual or organization on the list self certifies compliance with the requirements of Education Code section 56502, subdivision (h), it would not be appropriate for OAH to provide any further comment about the scope of services offered.

Third, OAH already complies with the Advisory Committee's recommendation that no person or organization be included on the list without consent and without input about the information provided on the list. OAH will continue this practice.

In addition, OAH is in the process of updating the list by requiring those on the list to submit a renewal application. Failing to do so will result in removal from the list. In addition, beginning in June 2012, OAH will require that those on the list submit a renewal application in order to remain on the list. OAH is sending an email to those already on the list and to those on the Special Education Division's general listserve informing them of this process. The application and instructions have been updated and are posted on the OAH's website.

Timelines for Special Education Proceedings on Web Site

OAH agrees to adopt the Advisory Committee's recommendation and provide information on the website concerning important timelines for due process hearings. The information shall include information concerning the timelines governing mediation-only matters, and student-filed and district-filed requests for expedited due process hearings and regular due process hearings.