

OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
STATE OF CALIFORNIA

SPECIAL EDUCATION ADVISORY COMMITTEE MEETING

MAY 4, 2012

10:00 A.M. - 1:00 P.M.

JOINT SESSION

LOS ANGELES, CALIFORNIA
SACRAMENTO, CALIFORNIA

Official Transcriber: Stacy Wegner

COMMITTEE MEMBERS PRESENT:NORTHERN CALIFORNIA

TRACY BEAN
MARGARET BROUSSARD
FRAN ENGLISH
THOMAS GIBSON
SUSIE MALLOY
KENT REZOWALLI
CATHERINE SHERMAN
TOM GIBSON

SOUTHERN CALIFORNIA

MARGARET DALTON
AMY FOOTY
MAUREEN GRAVES
MIHO MURAI
CHRISTINE SMITH
ROBERT WRIGHT

COMMITTEE MEMBERS NOT PRESENT:**ALSO PRESENT:**

JUDGE JUDITH KOPEK, Administrative Law Judge
JUDGE BOB VARMA
JUDGE RICHARD BREEN
JUDGE MARIAN TULLY
JUDGE THERESA RAVANDI

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P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE KOPEK: Good morning
3 everyone. My name is Judith Kopek, and I'm the Division
4 Presiding Administrative Law Judge for the California Office
5 of Administrative Hearings, and I want to welcome you to the
6 Office of Administrative Hearings Special Education Advisory
7 Committee. I apologize for the delay, but we needed to make
8 sure that we had a quorum in both Northern and Southern
9 California.

10 We have a very busy agenda, so I think I need to
11 apologize in advance if it feels like I'm trying to move
12 things along because we had a number of -- a lot of very
13 important topics that I'd like to discuss as best we can
14 today.

15 Before we get started, what I'd like to do is see
16 if we can have a facilitator in Northern California and
17 Southern California to assist me and Judge Breen, who is in
18 Southern California. Is there anyone who would like to
19 assist me in Northern California? No? Okay. Actually, at
20 this point I am perfectly fine facilitating if there's no
21 objection. No objection? Okay. How about Southern
22 California? No? Okay. Any objection to having Judge Breen
23 facilitate the meeting in Southern California? Well, okay.
24 We go ahead and do that.

25 MR. BREEN: Okay.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Similarly, in the
2 past we've had note-takers, and I appreciate everyone who's
3 been willing to do that. This time we have OAH staff, one in
4 Northern California and Southern California who are available
5 to take notes.

6 And if there's anyone in Northern California who'd
7 like to assist, I wouldn't want to deny you that opportunity.
8 Anyone? Any objection to having the note taker be
9 Administrative Law Judge Terry Ravandi? Hearing none. Okay.
10 In Southern California, is there anyone who would like to be
11 a note taker? Any objection to having Administrative Law
12 Judge Tully be a note-taker? I'm sorry. Mr. Murai, would
13 you like to be a note-taker?

14 MS. MURAI: Yes.

15 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Any
16 objections to Mr. Murai being the note-taker? All right. We
17 will also have Administrative Law Judge Tully assist with the
18 note-taking. Okay. Terrific.

19 At this point what I'd like to do is have each of
20 the members introduce themselves, and let's start in Southern
21 California.

22 MR. WRIGHT: Okay. We'll start from my left. Bob
23 Wright, parent.

24 MS. MURAI: Miho Murai, attorney for student.

25 MS. FOOTY: Amy Footy (phonetic), school district

1 and parent.

2 MS. DALTON: Margaret Dalton, parent attorney.

3 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And we have
4 an unusual situation, in that Ms. Maureen Graves is a member
5 of the Southern California Committee, but she is here in
6 Sacramento, so Ms. Graves, you want to --

7 MS. GRAVES: Maureen Graves, parent lawyer and
8 parent.

9 ADMINISTRATIVE LAW JUDGE KOPEK: If you want to --
10 I tried to adjust the -- you can either move here if you'd
11 like or if you want to scooch over so we can get you on
12 camera (inaudible).

13 MS. GRAVES: Okay. I think I'll move over there.

14 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Don't
15 forget to take your nametag as well. All right. And in
16 Northern California, why don't we start with Ms. Malloy.

17 MS. MALLOY: Yes. Susan Malloy, parent.

18 MS. ENGLISH: Fran English, program supervisor and
19 parent.

20 MS. BEAN: Tracy Bean (phonetic), director of NPA
21 and parent.

22 MS. BROUSSARD: Margaret Broussard, attorney for
23 parent and students and parent.

24 MR. GIBSON: Tom Gibson, parent and attorney.

25 MS. SHERMAN: Catherine Sherman (phonetic),

1 resource specialist and parent.

2 MR. REZOWALLI: Kent Rezowalli director of Tri-
3 valley SELPA.

4 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Terrific.
5 I want to welcome everybody once again. As I indicated, in
6 Northern California, we have Administrative Law Judge
7 Ravandi, who will be taking notes, and as usual we have
8 Presiding Administrative Law Judge Varma who will be
9 providing the email comments that come in from the public
10 here in Northern California. And in Southern California we
11 have Presiding Administrative Law Judge Richard Breen along
12 with Administrative Law Judge Marian Tully.

13 I would like to just very briefly go over the
14 process of the Committee. I will present any agenda items
15 that were placed on the agenda by the Office of
16 Administrative Hearings. The member will present items that
17 the member requested to have on the agenda.

18 For each item we will have discussion by the
19 Committee, both north and south. In addition, if there are
20 any comments coming in from the public on an item after the
21 Committee has concluded their discussion, we will have public
22 comments.

23 During a discussion if a member would like to make
24 a recommendation, in terms of taking action or a proposal to
25 OAH on the item, they can identify that. We ask that items

1 be seconded to ensure that there is sufficient interest, and
2 then a discussion of the recommendation and then a vote, both
3 in Northern California and Southern California.

4 As always, we do not adhere to Robert Rule of
5 Order, but Mr. Rezowalli if you wouldn't mind once again
6 being our informal parliamentarian --

7 MR. REZOWALLI: Okay.

8 ADMINISTRATIVE LAW JUDGE KOPEK: -- along with me,
9 for the purpose of making sure that the record is clear, we
10 understand what is being discussed, so that we have a clear
11 record and everyone can follow our discussion. So Mr.
12 Rezowalli, can you?

13 MR. REZOWALLI: Oh, sure.

14 ADMINISTRATIVE LAW JUDGE KOPEK: Thank you so much.
15 Okay. And questions about the process? Okay. Moving on.

16 MR. BREEN: Judge Kopek?

17 ADMINISTRATIVE LAW JUDGE KOPEK: Yes.

18 UNIDENTIFIED SPEAKER: Before we move on to
19 (inaudible) could I just inquire here in Southern California,
20 is there anyone present that requires Spanish language
21 translation?

22 ADMINISTRATIVE LAW JUDGE KOPEK: No.

23 MR. BREEN: Okay. Thank you. Just wanted to make
24 sure. I do have a translator standing by.

25 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Terrific.

1 Thank you Judge Breen.

2 MR. BREEN: And Sunday Johnson just arrived, and
3 she's trying to sneak into the corner, but it's not going to
4 work so --

5 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Johnson.

6 MR. BREEN: Ms. Johnson, please join us. And you
7 get to sit next to me now.

8 ADMINISTRATIVE LAW JUDGE KOPEK: Well, Ms. Johnson.
9 We're great -- we really appreciate your attending.

10 MR. BREEN: Thank you.

11 ADMINISTRATIVE LAW JUDGE KOPEK: Since this is the
12 spring meeting, this is the second and final meeting of this
13 fiscal year, and it is the concluding meeting for a number of
14 members who were appointed two years ago and we -- I want to
15 thank each and every one of you for your service, your
16 participation. You've been a valuable asset to the Office of
17 Administrative Hearings.

18 And I also want to encourage you to reapply. And
19 just to refresh everyone's memories, the returning members
20 who are concluding their term in Northern California are
21 Margaret Broussard, Fran English, Thomas Gibson, Susan Malloy
22 and Kent Rezowalli.

23 And in Southern California the members who are
24 finishing their term and we encourage you to reapply if
25 you're interested in continuing are Margaret Dalton, Ann

1 Delfosse, Paul Eisenberg, Maureen Graves, Miho Murai,
2 Christian Smith and Bob White.

3 We provided the application materials to you and I
4 believe you have additional copies today, and we are asking
5 that applications be submitted by close of business on June
6 15th, 2012. And then the Office of Administrative Hearings
7 will make their selections and the new members will be
8 notified. Any questions about the application process? No?
9 Okay. Thank you very much.

10 We have had a number of staff changes here at the
11 Office of Administrative Hearings that I want to make you
12 aware of. Linda Cabatic has been appointed by Governor Brown
13 to serve as our Director and Chief Administrative Law Judge.
14 She joined the Office of Administrative Hearings in 2008, and
15 has served as our Deputy Director, and since August of last
16 year she served as our acting Director and Chief
17 Administrative Law Judge, so we are very pleased to have
18 Judge Cabatic continue in her role. She has been a great
19 supporter of the Special Education Division and values very
20 much the work of the Advisory Committee.

21 In addition, we have a number of new Administrative
22 Law Judges that we have been able to hire over the last few
23 months. Administrative Law Judge Terry Ravandi, who is here
24 in the room, is a new judge here in Sacramento. In addition,
25 we have Judge Joan Harrington in Sacramento and Judge Troy

1 Taira, who had been with OAH and then transferred to the
2 Department of Social Services, has returned to the Office of
3 Administrative Hearings as a special education judge. And so
4 we have those three new judges in the Sacramento office.

5 In the Van Nuys office we have Judge Tully, who is
6 here with us today assisting. And then we also have Judge
7 Alexa Hohensee and both Judge Tully and Judge Hohensee had
8 served as pro-tem Administrative Law Judges and have joined
9 the ranks of the full time Administrative Law Judges for
10 Office of Administrative Hearings.

11 And also, in San Diego Paul Kamoroff has joined us
12 also as an Administrative Law Judge. And we have currently
13 recruiting for another Administrative Law Judge for Southern
14 California to be in either the Van Nuys office or the San
15 Diego office depending upon who the best candidate is.

16 Shetal Sharma, who had been one of the calendar
17 clerks for LAUSD, has been promoted to be the legal support
18 supervisor, so she is in charge of all the calendar clerks.
19 If you have any issues, concerns, she is certainly a first
20 place for you to go if you need assistance if the calendar
21 clerks are unable to help you with.

22 In addition, we have three new calendar clerks.
23 Renee Smith is handling transcripts and administrative
24 records. Colette Clark is handling regular caseload, and
25 replacing Ms. Sharma on the LAUSD desk is Karen Thy. And all

1 of these folks are very energetic and very interested in
2 assisting all of you with any issues or concerns or
3 information concerning the cases that you have. Okay.

4 And then, in addition, Crystal Freeman, who had
5 been the analyst in special education. She was on maternity
6 leave, and she decided that she wanted to stay home with her
7 two adorable twins, so she has left OAH, and Jennifer Hailey
8 continues to fill behind her. She helps behind the scenes.
9 She's responsible for crunching all the numbers for the
10 quarterly reports, so she's a very important member of our
11 team.

12 MR. BREEN: Judge Kopek?

13 ADMINISTRATIVE LAW JUDGE KOPEK: Yes.

14 MR. BREEN: Before we move on, Ms. Smith has joined
15 us.

16 ADMINISTRATIVE LAW JUDGE KOPEK: Terrific.
17 Welcome, Ms. Smith.

18 MR. BREEN: And I'm going to encourage her to sit
19 at the conference next to Ms. Booth (inaudible). Thank you.

20 ADMINISTRATIVE LAW JUDGE KOPEK: Terrific. We're
21 great to have all of you. Okay. Moving on to the
22 substantive items.

23 The first one is a carryover from the last meeting.
24 I believe at the very end of the meeting I gave a very rushed
25 overview of this item, so I'd like to present it again. The

1 California Code of Regulations Title 1, Section 1034 governs
2 peremptory challenges for the Office of Administrative
3 Hearings and so it does apply to Special Education Division.

4 And it provides that if a matter has a prehearing
5 conference, and all of our special education due process
6 hearings do have prehearing conferences, that each party is
7 entitled to make a peremptory challenge, and if there is a
8 prehearing conference that challenge must be made at the
9 beginning of the prehearing conference.

10 Challenges can be made both orally and in writing.
11 Well, first of all, we encourage them to be made in writing.
12 If they're made orally at the prehearing conference, we will
13 ask that a written -- a motion be submitted so that we have
14 the document in the record.

15 And the key in terms of exercising the peremptory
16 challenge is exercising it timely, so I just want to
17 emphasize that if there is a prehearing conference and if you
18 wish to challenge the judge who is conducting the prehearing
19 conference, you need to do it at the beginning of the
20 prehearing conference.

21 Our goal continues to be that the judge who handles
22 the prehearing conference will handle the due process
23 hearing; although, with the fluidity of our calendar, we
24 can't always do that.

25 So if after the prehearing conference if we change

1 the judge, you will be notified by telephone as soon as
2 possible. The change will show up on our calendar online.
3 And under our contract with the Department of Education, we
4 have agreed to a more generous rule for peremptory challenges
5 that is provided in the regulation.

6 And the rule for special education is if the judge
7 is changed for any other reason other than being grant -- a
8 peremptory challenge being granted at the prehearing
9 conference, the preemptory needs to be made no later than
10 noon the business day prior to the hearing.

11 The rule, just for your information under the
12 regulation, is that if the hearing is not held at the OAH
13 office, which is true for just about all of our hearings,
14 that the challenge must be made noon the Friday of the week
15 prior. So unless you have a hearing starting on a Monday,
16 then the rule that we have for special education gives you
17 more time, frankly, to issue the peremptory challenge.

18 Later on in the agenda there's an item concerning
19 our revised scheduling order, and the rules governing
20 peremptory challenges are going to be set out in the revised
21 scheduling order.

22 Any comments, questions in Northern California?
23 Any in Southern California? No? Okay.

24 We had a request to mute the microphone in Southern
25 California. And Judge Breen, as keeper of the mic, you'll

1 need to turn it up when we have comments from Southern
2 California.

3 MR. BREEN: Will do.

4 ADMINISTRATIVE LAW JUDGE KOPEK: And those of us in
5 Northern California, we'll try not to shuffle papers because
6 I know that that can be a really troublesome sound. Okay.
7 All right. Hearing no comments concerning peremptory
8 challenges, let's move on.

9 The next items were all submitted by various
10 Committee members. The first item concerning more frequent
11 advisory Committee meetings was proposed by Ms. Dalton of
12 Southern California, and so I will turn the floor over to Ms.
13 Dalton.

14 MR. BREEN: Okay.

15 MS. DALTON: Thank you. I guess my concern or the
16 issue that I've seen is that when we do have some
17 deliberations and recommendations for OAH, to have the
18 meetings only twice a year can mean that it's at a minimum
19 six months before we get feedback.

20 And we do get feedback, don't get me wrong, but it
21 could be another six months before something is really
22 implemented. In other words, it seems like it can take a
23 year for a change if it requires a recommendation, etcetera,
24 so I -- I thought historically they were every two months,
25 bi-monthly, but I could be wrong in that. I just thought --

1 MR. BREEN: You're thinking bi-annually.

2 MS. DALTON: And I realize it's hard to get people
3 to the meetings, clearly, so I'm not sure how to resolve that
4 problem, but it seems like if we want the group to be
5 effective that we need to meet more often.

6 I mean, it doesn't mean we need -- and I don't know
7 with what the rule is on this, but I don't see why we
8 couldn't do some conference -- I mean, we could do it in
9 different locations and all conference in, for example, but
10 that was what -- and I think someone else had a similar
11 recommendation. Was it you, Miho? I think Miho had a
12 similar recommendation, so I'd kind of like her to give her
13 feedback.

14 MS. MURAI: Well, I was just -- I mean, I know my
15 concern is just by talking to the parents, and they do want
16 to be active and involved in the meeting, but by having it
17 twice a year is not sufficient for them.

18 And so -- and I also agree, I think that if we are
19 making recommendations, having to wait another six months to
20 hear the recommendations, it -- you know, it defeats the
21 purpose, I think, of our job. So I just think that -- I know
22 the Advisory Commission on Special Education meets quarterly,
23 and so I just think that our Advisory Committee is very
24 similar to theirs and that we should meet.

25 UNIDENTIFIED SPEAKER: That's a good idea.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Mr. Murai, are you
2 proposing (inaudible).

3 MR. BREEN: Okay. Judge Kopek, I --

4 ADMINISTRATIVE LAW JUDGE KOPEK: Are you proposing
5 -- I forgot to turn on my mic. Are you proposing that the
6 Advisory Committee meet quarterly?

7 MS. MURAI: Yes, I am.

8 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Is there a
9 second?

10 MS. DALTON: I'll second.

11 ADMINISTRATIVE LAW JUDGE KOPEK: And who is that,
12 please?

13 MS. DALTON: Oh, sorry. Margaret Dalton.

14 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. I forgot to
15 remind you, if you would please identify yourself before
16 speaking. It helps the transcript, and also for those who
17 are listening on the web.

18 So that is seconded. Let's take a vote in Northern
19 California, all those in favor say aye.

20 MR. REZOWALLI: Discussion?

21 ADMINISTRATIVE LAW JUDGE KOPEK: Oh, I'm sorry.
22 Thank you, Mr. Rezowalli. Would you like to have further
23 discussion on meeting quarterly?

24 MR. BREEN: Okay. Why don't we start down in
25 Southern California. This is Presiding Judge Breen. So

1 anyone on the Committee have further comments? Okay.

2 Recognizing Bob Right.

3 MR. WRIGHT: Thank you. I think it's a great idea.
4 I had some concerns about getting a quorum for our
5 semiannually meeting, and I'd like -- it seems logical that
6 it would be even harder to get a quorum on a quarterly
7 meeting, unless there were more board members on the advisory
8 -- I mean, Committee members, so I wouldn't vote against it,
9 but I do -- you know, if we can't get a quorum, we can't have
10 a meeting. That would be difficult, so that's just a
11 comment. Thank you.

12 MR. BREEN: Okay. And anyone else here on the
13 Southern California Committee has a comment on the proposal
14 for quarterly meetings? Okay. Judge Kopek, I'll turn it to
15 Northern California members.

16 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Any
17 comments here in Northern California concerning the
18 recommendation?

19 MS. GRAVES: Is there something in the law that
20 says that the quorum has to be established separately at each
21 spot or could it be an overall quorum, which might make it a
22 little easier to meet?

23 ADMINISTRATIVE LAW JUDGE KOPEK: Actually, it's
24 unclear to me, taking a look at it. I think to be safe, the
25 best reading is to have the quorum be met both independently

1 both in Northern California and Southern California.

2 Just the way it's written, it talks about an
3 Advisory Committee with both northern and Southern California
4 having nine members each, so it seems -- it's just unclear,
5 so that's why I believe the best way to make certain that we
6 comply with the Opening Meeting Act is to make sure that we
7 have a quorum in each location.

8 MR. REZOWALLI: Okay. Just a comment on the quorum
9 part of it. In looking in the minutes, there's some
10 recommendations that passed north not south, didn't pass
11 north, pass south. How are those looked at? That's two
12 different Committee recommendations because the rules would
13 be probably be the same for both state.

14 MR. BREEN: And just really quickly. This is Judge
15 Breen in Southern California. Could the Northern California
16 speakers identify themselves? That Mr. Rezowalli?

17 MR. REZOWALLI: Yes, it was. Thanks.

18 MR. BREEN: Okay. Thank you.

19 ADMINISTRATIVE LAW JUDGE KOPEK: The way I have
20 done it, again, to be -- I don't want to be conservative, but
21 to be careful to protect the integrity of the Committee is
22 that we did have a number of items that passed in one
23 location and not the other, and so I deemed that that
24 recommendation from that Committee -- that portion of the
25 Committee passed, and I then responded as though it had

1 passed. So it just continues with this idea that it's a
2 hybrid entity. Anything else on the recommendation in
3 Northern California? Okay.

4 MR. BREEN: And we have a hand up in Southern
5 California. Ms. Dalton would like to address the Committee.

6 MS. DALTON: Thank you. I just wanted to give some
7 feedback to Bob's comment, which is an important one on the
8 quorum. I know it's not on the agenda, Judge, since it
9 relates to the discussion, I don't -- I'd hate to see us mix
10 the difficulty having a quorum with the need for more
11 frequent meetings, so I think there's two very different
12 issues.

13 If we're getting difficulty having a quorum, one of
14 the things -- I know it's not in the agenda, Judge Kopek, but
15 one of the things I think we need to add to the agenda is --
16 I mean, if members miss a certain number of meetings, I think
17 they need to be bounced. That's personal feeling. That we
18 have to make it a priority if we're going to do. Any of us
19 might miss a meeting. I mean, Maureen is here from the east
20 coast and there she is, so that's just my feeling. That's
21 two separate issues.

22 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Are there
23 any public comments in Southern California on this item?

24 MR. BREEN: Members of the public, any comment on
25 that? Okay. No, there are not, Judge Kopek.

1 ADMINISTRATIVE LAW JUDGE KOPEK: All right. Ms.
2 Graves --

3 MR. BREEN: We have one, and we have a final
4 comment from Committee member Miho Murai.

5 MS. MURAI: I was just wondering if it's -- I'm
6 assuming it's possible for the Advisory Committee members to
7 also be able to attend the meeting via webcast, right?

8 ADMINISTRATIVE LAW JUDGE KOPEK: No, it's not.
9 Well, yeah. The Open Meeting Act has very specific
10 requirements in terms of members appearing through
11 videoconference or telephone, other than in person, and
12 generally it would not be -- we would not be able to comply
13 with the Open Meeting Act for a member say to be at home or
14 in or her office watching the webcast.

15 In this situation, Ms. Graves attending here
16 because we complied with the fact that we do conduct this
17 meeting in the present forum through videoconference, Ms.
18 Graves was permitted to attend here in Northern California
19 videoconferencing to Southern California, again, assuming
20 that we have to comply with the Open Meeting Act for each
21 Committee separately. Okay.

22 And we have a couple members in Northern
23 California. I believe, Ms. Graves, you were first?

24 MS. GRAVES: Yeah. I don't know why people get on
25 the Committee and then don't come, and I'm sure there are

1 often good reasons, but to the extent that people feel that
2 the Committee is not that effective and it's just advisory
3 and it takes a very long time for anything to happen and if
4 at all, then possibly meeting more often and being perceived
5 as more effective would encourage people to come.

6 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And Ms.
7 Bean?

8 MS. BEAN: Yes, Tracy Bean. Just looking back at
9 our meetings from last -- notes from last time, we had a
10 scheduled meeting that didn't occur on April 12th.

11 So I think if we schedule -- if we're going to do
12 the quarterly and we set the schedule at the meeting that we
13 need to adhere to that going forward, and that way people
14 have it in their calendar and not wondering when the next
15 meeting will be.

16 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. It sounds
17 like that might be another recommendation or just a comment?

18 MS. BEAN: Just a comment. That if we're going to
19 do that the further notice that we have of the meeting coming
20 up --

21 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

22 MS. BEAN: -- the better chances we have of having
23 that quorum.

24 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Thank you.
25 Any further comments? Any comments from the public in

1 Northern California? No? Okay. Judge Varma, do we have any
2 email comments? All right. Are we ready to take a vote?

3 And Judge Breen, let's -- since it's originated in
4 Southern California, let's start there.

5 MR. BREEN: Okay. And if you don't mind, I'll have
6 folks do show of hands, and then I'll announce what it was.
7 Okay.

8 All those in favor of the proposal -- we're going
9 to break these out -- the proposal to move the Advisory
10 Committee to meet quarterly? Can I please see a show of
11 hands in favor. That's anonymous for the members here.

12 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All right.
13 And in northern --

14 MR. BREEN: I'm sorry. The tally there is six
15 votes.

16 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All right.
17 In Northern California, all those in favor, please raise your
18 hand. All right. We have Ms. Malloy, Ms. English, Ms. Bean,
19 Ms. Graves, Mr. Gibson and Ms. Sherman. And those opposed?
20 Mr. Rezowalli and Ms. Broussard. And we have no abstentions.
21 All right. So it looks as though it passed in Northern
22 California as well. Okay.

23 The next item was offered by Mr. Murai, conducting
24 student filed hearings during summer break. Mr. Murai?

25 MR. BREEN: Okay. And I just had to unmute the

1 microphone, so, Mr. Murai, go ahead.

2 MS. MURAI: Okay. I just put this on the agenda
3 because I know this is another concern that has been raised
4 to me by some parents that when they file for due process,
5 like usually around April or May, their hearings are always
6 continued because the district says that they can't produce
7 the teachers because they're unionized.

8 And I know that, you know, at previous meetings we
9 have discussed the subpoenas. The concern is that I know
10 that, at least from speaking to parents, that district filed
11 complaints are going forward in the summer months. And I'm
12 not sure -- you know, I haven't had specific details if they
13 make the teachers available or what-not, but what I've --
14 from the informal gathering that I have, they do if they're
15 required, but when it comes to when a student files then, you
16 know, the district claims that they can't produce the
17 teachers because they're unionized.

18 So, you know, I understand that teachers are
19 unionized. I used to be a former teacher, but at the same
20 time I don't think that's sufficient grounds to continue
21 hearings, especially, you know -- then in the start --
22 especially, if it's like a placement change, then, you know,
23 it's just going to sit for the summer.

24 So I'm not sure -- I don't -- I didn't really have
25 specific recommendations in mind. I just wanted to see how

1 other committee members felt and kind of have a discussion.

2 ADMINISTRATIVE LAW JUDGE KOPEK: Is there any
3 comments from Southern California members?

4 MR. BREEN: Okay. And recognizing Ms. Smith.

5 MS. SMITH: This is Christine Smith. I represent a
6 school district, a really small one, and this would be a real
7 hardship for us. We cannot legislate even if a subpoena, if
8 -- I don't think if the teacher is out of the country or
9 whatever. I'm not sure how you'd even serve it.

10 And it puts it in a disadvantage if we just put
11 together a school team and they're not familiar with the
12 child, so I would not agree with them trying to go forward
13 when staff are not available. It's usually only a couple of
14 months in the summer, and frequently school is not in session
15 at that time so it doesn't impact the child significantly.

16 MR. BREEN: Okay. And then we have a few hands up,
17 so I believe first up was Ms. Dalton, and then we'll move to
18 Ms. Footy. So Ms. Dalton?

19 MS. DALTON: I think the law is pretty clear that
20 there's no tolling during summer for due process hearings, so
21 I don't think we can change that, and I would be very much
22 against it personally and representing a number of families.

23 I do understand that schools may not always be able
24 to control the production of teachers if there are union
25 issues, but certainly the Office of Administrative Hearings

1 and the Administrative Law Judge can issue a subpoena that
2 has validity.

3 And if somebody happens to be out of the country, I
4 guess we'd have to deal with that, but I don't -- most of
5 them should be able to be caught within California with a
6 subpoena, so I can't imagine changing what the law provides
7 for, which is during summer.

8 MR. BREEN: Okay. And then Ms. Footy also had a
9 comment from Southern California.

10 MS. FOOTY: I too work for the school districts,
11 and my experience is that there's already procedures in
12 place, and if both parents attorneys and district
13 representation agree, then we do a continuance.

14 If not, then the school districts do everything
15 they can to get members there, and we try to work together to
16 find the hearing time when people are available at the
17 quickest time we possibly can.

18 So I haven't seen it as an issue. I've done
19 hearings in the summer and I've had some postponed. It just
20 depends on each case and who we need.

21 MR. BREEN: Okay. Any other comments from Southern
22 California Committee members? Okay. None. And Judge Kopek,
23 did you want to move to North Cal committee members or
24 Southern California public?

25 ADMINISTRATIVE LAW JUDGE KOPEK: No. Let's go to

1 Northern California members. Ms. Malloy.

2 MS. MALLOY: Yes. I just wanted to disagree with
3 Ms. Smith with regard to whether or not this impacts
4 negatively the student, particularly since you're going to be
5 starting a new school year with the same problems that you've
6 had in the prior year, so it would greatly benefit.

7 If there were issues and then there's delays that
8 push it into the summer, there may be some advantage for the
9 school district not to complete an IEP, etcetera, allow it to
10 delay, and then you have to pick it up in September. So it
11 would greatly benefit the child to start a brand new year
12 having a program intact. Thank you.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Broussard.

14 MS. BROUSSARD: This is Margaret Broussard. My
15 comment would be that many, many IEPs are held in May, late
16 May, sometimes early June. And not having the opportunity to
17 kind of hammer out a kid's placement during the summer, I
18 think, can be difficult and may result -- if an IEP was held
19 June 1st and there was a tolling of the summer that child's
20 placement may not be determined until December or January
21 under the current hearing timeline guidelines, so that's one
22 way I think there could be some prejudice to the student.

23 On the other hand, I think the current system,
24 whereby the individual judges determine the continuance on a
25 case-by-case basis, given whatever the district may plead is

1 reasonable and has been working for me just fine. I have
2 some cases that proceed in the summer, and I have some cases
3 where continuance are agreed to, and I have some cases where
4 the district has filed for a continuance. And I think it's
5 working okay.

6 ADMINISTRATIVE LAW JUDGE KOPEK: Any -- Ms. Graves.

7 MS. GRAVES: I haven't personally had this problem,
8 but I think if there -- if it is existing, then one possible
9 action item would be to indicate that simply asserting the
10 unavailability of staff during the summer does not constitute
11 good cause for continue of a hearing.

12 You know, of course, that's going to complicate
13 presentation of everyone's case, and it might be a reason
14 people might want to try to work things out, but I guess I
15 would suggest a proposal that simply -- that's simply
16 asserting that it's summertime and we can't do hearings in
17 the summer should not be good cause for continuance over
18 parental objection.

19 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. So the
20 unavailability of school staff during summer months is not
21 good cause -- okay -- is not good cause for continuance.

22 MS. GRAVES: Right.

23 ADMINISTRATIVE LAW JUDGE KOPEK: I think implicit
24 is that with the parties don't agree?

25 UNIDENTIFIED SPEAKER: I'm sorry. I thought I

1 heard Maureen say kind of a blanket that staff isn't -- staff
2 is unavailable.

3 MS. GRAVES: But even if there were a more
4 particularized statement, even if there were declarations
5 saying, you know, this one is going to Greece and that one is
6 going to Italy, I still don't think that that would be a
7 reason for delaying a student's access to a hearing during
8 the summer.

9 ADMINISTRATIVE LAW JUDGE KOPEK: And is there a
10 second or need for clarifying --

11 MR. REZOWALLI: No. No. I just heard is that a
12 recommendation going for a second?

13 ADMINISTRATIVE LAW JUDGE KOPEK: I was asking for a
14 second.

15 MR. REZOWALLI: Okay.

16 ADMINISTRATIVE LAW JUDGE KOPEK: Is there a second?

17 MR. BREEN: And from Southern California, Mr. Murai
18 seconds.

19 ADMINISTRATIVE LAW JUDGE KOPEK: All right. Thank
20 you, Mr. Murai. All right. Discussion? Mr. Rezowalli?

21 MR. REZOWALLI: Yeah. And I have a school district
22 of 40 kids, and there's nobody there during the summer time
23 and so -- if somebody mails something to that district
24 office, I'm not sure exactly where it would go. It would at
25 least be sent off to somebody who didn't probably -- wouldn't

1 be able to do much with it, unless they make some particular
2 arrangements.

3 I don't think I've heard the system is really
4 broken. I've heard anecdotal that if it is a real problem
5 then maybe something should happen. I think that's where the
6 recommendation came from, but I didn't hear really
7 overwhelming support saying that there's such a serious
8 problem that we need to change the rules.

9 ADMINISTRATIVE LAW JUDGE KOPEK: Any other comment
10 in Northern California members? Okay. Southern California?

11 MR. BREEN: Okay. And we have -- Ms. Footy wants
12 to comment.

13 MS. FOOTY: I have to agree with Mr. Rezowalli. I
14 don't believe that there's any huge problem. I know I work
15 with ten different school districts, and filings come in
16 throughout the summer with furlough days even, staff isn't
17 around, and we've been able to work things out.

18 And that there's time when we need that flexibility
19 because I don't think it would be fair to try to do a hearing
20 if a key witness is in Europe and say oh, well. There's
21 times when that needs to happen. And so far, usually both
22 parties are able to talk it out and work it out because we
23 are all looking for the best interest of the student and know
24 that we need people to be able to do what we need to do.

25 ADMINISTRATIVE LAW JUDGE KOPEK: Any other Southern

1 California members? Okay.

2 I know, Ms. Graves, I'm sort of treating you like a
3 Northern California member for the purpose of discussion, but
4 you have an additional comment?

5 MS. GRAVES: Yes. I think it would definitely be
6 good cause for telephone testimony if someone is far away,
7 and with current technology documents could be made available
8 to the person. They could testify telephonically at not huge
9 expense from anywhere in the world.

10 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Any further
11 comments from members in Northern California? Members of the
12 public in Northern California? Okay.

13 MS. BU: You want me to sit here?

14 ADMINISTRATIVE LAW JUDGE KOPEK: Yes.

15 MS. BU: Van Bu (phonetic), attorney for school
16 districts. I would strongly disagree with Maureen's
17 proposal, and I actually agree with Peggy -- no. No.
18 Shocker, Peggy. Because I -- you know, with regards to the
19 continuance motions. This is really about continuance, and
20 the standard for a continuance is good cause. And it has to
21 be decided by the Administrative Law Judge based on the
22 circumstances, based on the facts, given the specific
23 circumstances of that particular case.

24 A blanket rule regarding no good cause for school
25 district staff really has to go both ways. I've seen motions

1 in which parent witnesses are unavailable, and then, you
2 know, and it may or may not be good cause because of the
3 significance of the particular witness.

4 And so with regards to particular school district
5 staff, if it's a material, a substantial witness, if it's
6 central to a particular issue, I think it would be terrible
7 prejudice to the school districts to deny the continuance to
8 -- in order to push for a hearing in which the district does
9 not have an adequate opportunity to present its case and to
10 defend itself.

11 And so what regards to the process I would, you
12 know, strongly oppose the proposal, and I would ask that the
13 current process that allows for continuances to be based on
14 circumstances that are specific to the (inaudible) move
15 forward as it always has been for the last 20 something
16 years, 30 something years.

17 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And in
18 Southern California?

19 MR. BREEN: Okay. Starting first, final comments
20 from committee members. Mr. Murai.

21 MS. MURAI: I mean, I just going to -- the reason
22 why I support Maureen's proposal is because I think, at least
23 from my experience from other attorneys that I've spoken to
24 is that there is a common -- I mean, even though, you know,
25 the law is clear to Ms. Dalton and I, the law is clear -- in

1 terms of the school districts, I frequently get the same
2 verbiage that, you know, it's the summer and the teachers are
3 unionized and we cannot make them available.

4 So I mean, I think, you know, we do have the power
5 to issue subpoenas, whether or not we're being -- that's been
6 enforced, but my experience has been that at a prehearing
7 conference, or even beforehand, if the district argues, well,
8 you know, we cannot produce the witnesses, then the
9 continuance is granted automatically. So I think that in
10 order to change that -- I can't think of the word but --

11 UNIDENTIFIED SPEAKER: Practice.

12 MS. MURAI: That practice. I mean, there needs to
13 be something more direct thing. That that can't be a
14 grounds. And especially, I mean, the fact is, you know, as
15 somebody stated, IEPs are held in May and June. And so what,
16 you know, we have to wait until the fall to -- you know, I
17 mean, we could file. But again, at least my experience has
18 been, well the teachers are not available so we would have to
19 wait, you know.

20 So I just think that there needs to be -- I
21 disagree with the school district rep that said that it's not
22 prejudicing -- a couple months is not prejudicing the kid.
23 That's not true. I mean, the child needs to know and the
24 parent needs to know where the child is going to start off in
25 the following school year, especially if it's going to be a

1 change of placement.

2 MR. BREEN: This is Presiding Judge Breen. From
3 Southern California, anymore comments from our committee
4 members? Okay.

5 MS. JOHNSON: I'll make one.

6 MR. BREEN: All right. And Ms. Johnson is going to
7 weigh in.

8 MS. JOHNSON: This is Sunday Johnson, and I am
9 attorney who represents school districts, and we often have
10 cases held in the summertime. So I feel like the current
11 system is working. It is, you know, between the parties, and
12 motions to continue are based on individual facts.

13 Certainly, I've never had a motion granted -- to
14 continue granted solely on the general proposition that
15 district witnesses are off during the summer. There requires
16 much more additional information in order for a motion like
17 that to be granted. So I would indicate that I think that
18 the current system that we have in place works appropriately
19 for both sides.

20 MR. BREEN: Okay. And for our Southern California
21 members of the public, this is Judge Breen again. Any of our
22 public members wanted to weigh in on this one? Okay. We've
23 got a few hands here, so we'll start with, I believe, in
24 order. And if I've forgot names or need to massage them,
25 help me out with it, please. We'll start with Cole Dalton.

1 COLE DALTON: Hi. Cole Dalton. I'm a school
2 district attorney, and I've had this cut both ways I guess.
3 I've had due process hearings during the summer, and the
4 problem that I encountered was not with a school district
5 employee, but with the agent NPA who was providing services
6 to the student, who had very good knowledge of the student,
7 who had worked with the student for a number of years was
8 unavailable to testify. She was out of state.

9 We spent a lot of good money trying to find her and
10 subpoena her well before the hearing, but I think she got
11 wind of that and we were unable to get her, at the expense of
12 copying multiple exhibit binders, shipped them across country
13 (inaudible). They were returned back to us unopened.

14 So I mean, there can be a lot of effort and a lot
15 of expense by districts still to no avail. I think typically
16 these are factors where a judge will say we can continue at
17 least one day of hearing so you can try and get this witness
18 in once they get back in town, or there's some arrangements
19 can be made.

20 But to have a blanket rule that says people who
21 know a student, providers who know a student, whether they're
22 out of the country, unavailable, you can't get them served
23 with a subpoena. It doesn't matter if they testify, let's go
24 forward with the hearing. That's really unpatently unfair,
25 and it does nothing to forward a student's FAPE during a

1 hearing because we're not going to have all the information.
2 Thank you.

3 ADMINISTRATIVE LAW JUDGE KOPEK: Judge Breen, I'm
4 sorry. I just need to weigh in a bit because I want to make
5 sure that we can discuss everything on the agenda.

6 MR. BREEN: Okay.

7 ADMINISTRATIVE LAW JUDGE KOPEK: I would ask the
8 public members that if the point has already been made by a
9 Committee member or other comments that you just keep your
10 comments to new arguments or new points of view at this
11 point, just in the interest of time. Thank you.

12 MR. BREEN: Okay. And there was a hand up from Ms.
13 Eva McKenzie. No? Okay. And I'm sorry, ma'am. What was
14 your name.

15 MS. YOUNGBLOOD: Sylvia Youngblood.

16 MR. BREEN: All right. And Ms. Youngblood wanted
17 to make a comment.

18 MS. YOUNGBLOOD: I just wanted to comment that the
19 union can't put anything in their bylaws that conflicts with
20 the law, so with them saying that the teachers are not
21 available because they're in the union, I mean, we hear that
22 all the time as parents, so -- but being familiar with
23 unions, nothing can be put in the bylaws that conflicts with
24 the law, so I don't think that should be an argument or
25 reason why.

1 But I agree that we shouldn't have to wait a whole
2 month to get -- to find out what your child's placement is
3 going to be because those three months are critical. And
4 that's all.

5 MR. BREEN: Okay. And anyone else in Southern
6 California? Any other public attendees have a comment?
7 Okay. Seeing none, Judge Kopek.

8 ADMINISTRATIVE LAW JUDGE KOPEK: I just want to add
9 we did receive a comment through the internet, and the
10 commenter supported the view that -- supporting the sound
11 discretion of the ALJ to determine continuances on a case-by-
12 case basis. Is there a Southern California member that --

13 MR. BREEN: Are you taking more comments? Yes.
14 And Margaret Dalton wanted to comment.

15 MS. DALTON: Just a comment on the comment. I
16 think when something comes in over the internet that the
17 person should be identified just as they are here, if there's
18 any way to do that. I don't think we should accept anonymous
19 comments. That's all for the --

20 ADMINISTRATIVE LAW JUDGE KOPEK: All right. At
21 this point, I believe we're ready for a vote, and let's start
22 in Southern California.

23 MR. BREEN: Okay. And Judge Kopek, how about --
24 this is Judge Breen. How about if I -- shall I try and
25 summarize --

1 ADMINISTRATIVE LAW JUDGE KOPEK: That would be
2 great.

3 MR. BREEN: -- what it is we're voting on?

4 ADMINISTRATIVE LAW JUDGE KOPEK: That would be
5 great.

6 MR. BREEN: Okay. The proposal -- and I believe it
7 was -- Ms. Graves was the last one that articulated it. Ms.
8 Graves was proposing a rule that the -- and I heard this
9 narrowly. That the broad reasoning of district personnel
10 being unavailable during the summer would not be good cause
11 for a continuance under OAH due process rules. Does that
12 sound like a correct summary of what we're voting on?

13 MS. GRAVES: Yes. The assertion of lack of
14 availability. I'm not sure with broad if that would suggest
15 that it's only if they don't name names, so I get the
16 assertion of unavailability because it's summer would not be
17 good cause.

18 MR. BREEN: Okay. I just see -- I draw a
19 distinction between individual personnel, and then I
20 sometimes get them -- I get the ones from districts that say
21 we can't do anything over the summer period.

22 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.
23 (inaudible).

24 MR. BREEN: That's what I thought you were
25 addressing. Then I get the ones that there are specific

1 instances of teacher so and so is helping kids in another
2 country or something like that, so -- but where other people
3 are available. So is it just any -- any reason any district
4 personnel?

5 MS. GRAVES: I guess let's make it a general
6 assertion that district personnel are unavailable does not
7 constitute good cause.

8 MR. BREEN: Okay. So we are voting on whether the
9 assertion by -- whether OAH should have a rule that a
10 assertion of personnel unavailability over the summer is not
11 good cause for a continuance. Okay. And those in favor in
12 Southern California?

13 MS. BROUSSARD: I'm still confused.

14 MR. BREEN: Okay. And the Southern California
15 votes in favor were Mr. Wright and Mr. Murai. And opposed?
16 Okay. Opposed, we have three votes, Smith, Footy and
17 Johnson, and Ms. Dalton?

18 MS. DALTON: Abstain.

19 MR. BREEN: And we have one abstention from
20 Margaret Dalton. So two yeses and three against, one
21 abstention.

22 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And in
23 Northern California, Ms. Broussard, I believe you indicated
24 that you're still not certain on what we're voting; is that
25 correct?

1 MS. BROUSSARD: If they've already voted, I'll just
2 -- we can just continue.

3 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

4 MS. BROUSSARD: (Inaudible).

5 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All those
6 in favor of the recommendation? We have Ms. Graves. And
7 actually, Ms. Graves, I'm going to need to count you for
8 Southern California, so I will do that in favor. And Ms.
9 Malloy.

10 And those opposed? We have Ms. English, Ms. Bean,
11 Mr. Gibson and Mr. Rezowalli. And any abstentions? We have
12 Ms. Sherman and Ms. Broussard. Okay.

13 Our next item is special education dispute
14 resolution process helpline, and that was offered by Mr.
15 Wright.

16 UNIDENTIFIED SPEAKER: Can I interject with a quick
17 plan of order, first, on the question of identifying public
18 speakers?

19 ADMINISTRATIVE LAW JUDGE KOPEK: Certainly.

20 UNIDENTIFIED SPEAKER: Just in response to previous
21 comment. We can't require that people identify themselves as
22 a condition of attending or making public comments, so I
23 think if a member of the public in the room or via email
24 indicates a desire to be anonymous that needs to be
25 respected.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All right.
2 Mr. Wright?

3 MR. BREEN: Okay. And we had a hand shoot up from
4 Ms. Dalton on the Committee.

5 MS. DALTON: It was slow. It was relative.

6 ADMINISTRATIVE LAW JUDGE KOPEK: I'm sorry. Ms.
7 Dalton --

8 MR. BREEN: She's passionate about the identity
9 issue.

10 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Well, since
11 that was not on the agenda, and I don't want to consume time
12 with it, I will continue to not identify those individuals
13 who are submitting public comments for this meeting so --
14 okay.

15 Mr. Wright, would you like to present the item?

16 MR. WRIGHT: Yes, I would, Judge. First of all,
17 thank you for allowing me a second opportunity to try and
18 better explain this concept and welcome. Thank you for all
19 the public members that are attending.

20 And so last meeting I proposed a legal hotline,
21 which rightly so raised the concerns about legal advice being
22 provided without representation and how wrong that is. And
23 what I -- in thinking about it after the meeting, you know,
24 I'm not trying to come up with some way of avoid of getting
25 an attorney.

1 I actually would like -- you know, it seems like to
2 me there's probably a lot of people that need representation
3 for their child, but the current system is that everybody
4 files for a due process hearing to get the process started
5 when the bulk of the cases get settled in or outside of
6 mediation and don't -- I hate to say the word deserve -- but
7 get resolved before they go to hearing.

8 And because of the cost and the complexity of
9 representing yourself or trying to in a due process hearing,
10 my concern is that many students don't get started in the
11 process because it's complicated.

12 And my wife is a school nurse. She's done a
13 hundred IEPs this year, and she also works at Children's
14 Hospital in telephone triage, and the triage of okay, for
15 assessment, press one. And, you know, because a lot of this
16 is just what do I need to do, you know, what are the laws and
17 what's the process. That's the information the students
18 need. And if they decide they're not capable of representing
19 themselves, then they can -- hey, this is my problem. I need
20 help, and this is what I need help on. And just to kind of,
21 again, provide an easier access to all the rules, laws.

22 I mean, I printed just the forms that were attached
23 for our meeting here and, you know, our frequently asked
24 questions are 15 pages, but everybody that's involved in the
25 process intimately, which I am not, you know, we just had the

1 one case with our son, knows more than I what the steps are.

2 But again, if more information could be provided at
3 no cost, just the facts without -- you know, to students,
4 parents about what their rights are, what the school's rights
5 are, what the processes are, I think it would allow, you
6 know, more students be given the FAPE and probably have a lot
7 less, you know, OAH -- due process cases filed that really
8 would have been happy in mediation or just needed an
9 assessment plan. Thank you.

10 And I -- one last point. If the group is
11 interested in pursuing this, I would volunteer to do some
12 research and see if some -- if there's that kind of a
13 resource available. If some state has, you know, that kind
14 of information already set up on a phone tree or something
15 like that, and bring that back to our next meeting.

16 So I'm not asking that we just decide to do it, but
17 if the Committee is and OAH is willing to explore this
18 further, then I'd volunteer to provide that information for
19 our next meeting. Thank you.

20 MR. BREEN: Thank you, Mr. Wright. And for our
21 Southern California members, any comments? And Ms. Smith had
22 her hand up first.

23 MS. SMITH: I would just like to say that I think
24 that many things can be settled at the district and at the
25 SELPA level. And I'm not sure -- I haven't called the

1 helpline to see what kind of advice they're getting, but
2 they're -- we don't have a helpline at the moment. We just
3 have the information about how to file if someone calls to
4 the state, correct?

5 MR. WRIGHT: When I did it, the OAH does not
6 provide any advice. You know, they can't -- current policy
7 is no advice can be provided because it's -- the concern
8 about advice.

9 MS. SMITH: Right. Right.

10 MR. BREEN: This is PJ Breen. I think the point
11 Mr. Wright was making, and I did listen to the last Advisory
12 Committee meeting, is that instead of just being able to call
13 OAH and ask for a particular procedure on filing --

14 MS. SMITH: Right.

15 MR. BREEN: -- he's looking for broader sort of, as
16 he used the metaphor triage of what do I do with this
17 problem, where do I go versus what do I file.

18 MS. SMITH: Thank you for the clarification. I
19 think that's a great idea, especially if it starts with
20 referring the person back to the local school district --
21 have you spoken to this person, have you spoken to this
22 person -- before it moves it up to the level because most
23 things can be settled locally. And also, you know, we have
24 SELPAs in our state of California, and there's a lot of
25 expertise at that level as well.

1 MR. BREEN: Okay. And Ms. Footy, did you still
2 have a comment?

3 MS. FOOTY: Yes. To my knowledge, that's one of
4 the rules that both SELPAs have to take and school district
5 administrators. If a parent calls, we have to assist them in
6 understanding the process and options.

7 Now, I realize some are better than others at that,
8 some are more comfortable than others dealing with conflicts,
9 but I can only speak for my SELPA, but I field those calls on
10 a daily basis, and it's just parents.

11 And I've actually assisted a parent in writing a
12 complaint because they were unable to write, and they needed
13 help, and that's -- as an educator, we have to support
14 parents. We then, you know -- as best we can, and we realize
15 sometimes things we need OAH, and we also know there's times
16 -- most the time we want to resolve things ahead of time.

17 MR. BREEN: Okay. Any other comments from Southern
18 California Committee members? Okay. And again, this is
19 recognizing Margaret Dalton.

20 MS. DALTON: Just wanted to clarify, and I'm going
21 ask Mr. Wright, I guess, to clarify his comment because I'm
22 getting confused. I thought -- and I think I'm one of the
23 persons -- I either abstained or voted against it the last
24 time, so -- because of concerns I had, so I just say that for
25 anyone who wasn't here.

1 That said, I thought your suggestion is very
2 different from the feedback you're getting because I thought
3 the suggestion is of an independent line, whether or not we
4 do it, whether or not I agree with it is another thing, but
5 it's not where should parents go first. Mr. Wright is making
6 it really clear, I think, suggestion of a certain path, and
7 that's what I think is on the table.

8 MR. WRIGHT: Just the facts, please, is what I --
9 you know, if OAH is the final decision-maker on disputes
10 between districts and students that if the students, the
11 parents can get the facts about the processes of their
12 dispute, you know, with the district is, then what their
13 particular district's situation is, if they know what their
14 rights are, then they can, with their rights in hand, talk to
15 the school or do whatever they want to do. That's outside
16 the realm of idea. Just the facts, what -- you know, I got a
17 problem. What are the steps? You got to do this. You got
18 to file this form, dah, dah, dah. That's it. And so you
19 know, just the parents more informed, so if they're talking
20 to their district or their SELPA or the teachers or anybody,
21 then they know what the rights of the student are and what is
22 rights of the district is. Thank you. Does that help?

23 MS. DALTON: I understood.

24 MR. BREEN: Okay. And any other comments from
25 Southern California Committee members? Okay. Hearing none,

1 Judge Kopek, did you want to take it to the Northern
2 California members?

3 ADMINISTRATIVE LAW JUDGE KOPEK: Any comments in
4 Northern California?

5 MS. BROUSSARD: I just have --

6 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Broussard.

7 MS. BROUSSARD: -- just one. I'd be interested
8 before this gets kind of -- I would be interested in knowing
9 whether there was any data supporting the fact that parents
10 who are unhappy with the outcome of an IEP or a district
11 decision are not filing for hearing because they don't
12 understand either that that option is available to them or
13 how to do it.

14 So to me, you know, given the huge volume of cases
15 filed in California, I'm -- the giving out of procedural
16 rights at nearly every IEP, I'm just not so sure that the --
17 and I don't know the answer to this -- but whether the data
18 would support the fact that this is -- would even be
19 necessary because people don't understand what to do. By the
20 time they're calling the Office of Administrative Hearings --
21 in order to even figure out there's even an Office of
22 Administrative Hearings, they've kind of got to know that
23 there's a due process process that the Office of
24 Administrative Hearings handles, so I'm concerned about the
25 fact that it may not be necessary.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Malloy?

2 MS. MALLOY: Yes. I just wanted to explain to Mr.
3 Wright that -- first of all, I do agree with Ms. Broussard's
4 comment that there seems to be something askew. If where
5 you're starting from -- which is how you began this proposal.
6 You started the proposal by saying that the process gets
7 started at due process. It does not get started at due
8 process, and if it does, that's a very sad state of affairs.
9 Certainly, at every IEP you should be receiving the parent
10 handbook. That should be in layperson's terms. If it's not,
11 it certainly should be explained to you.

12 I have a concern about a helpline versus say a
13 clinic, which might be, you know -- is definitely a different
14 avenue, but a helpline does not give one the opportunity to
15 look at paperwork to ask the follow-up questions to see
16 timelines, to effectively support or to consider what the
17 problem is.

18 So I'm not really sure if due processes is where
19 we're starting or if a triage is basically what you need. I
20 think what you may be asking for is actually a clinic where
21 you can actually go in and have your issues addressed.
22 That's my comment.

23 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Mr.
24 Rezowalli?

25 MR. REZOWALLI: This is Kent Rezowalli. There are

1 at least two documents on OAH website, one specifically
2 written for parents on how to manage the process. At least
3 one is quite long and lengthy. The other one of them is a
4 little bit shorter and makes a little bit easier to
5 understand and work through the process.

6 I'm saying that because of the comment that OAH
7 doesn't provide advice. There is (inaudible) I'm not sure if
8 you'd call it advice, but there is documentation on how to
9 navigate the process. I'm not sure how many people have read
10 that stuff, but it's out there. I just want to make that
11 comment.

12 ADMINISTRATIVE LAW JUDGE KOPEK: Any other comments
13 by members? How about public members of the public? No?
14 Okay.

15 MR. BREEN: Okay. Judge Kopek, this is Judge Breen
16 in Southern California. I believe Mr. Wright wanted to
17 follow up, and then we -- I did see a public hand here as
18 well, so Mr. Wright.

19 MR. WRIGHT: Very briefly. The facts. Year to
20 date, there were 2206 due process hearing cases filed, and 89
21 cases had a decision, a hearing and a decision, and over 1600
22 of those 2200 cases were settled in or out of mediation.

23 So the point about the need for people to have, you
24 know, questions answered, you know, after they're at the due
25 process process, I think the results -- you know, OAH's

1 (inaudible) or experience with settling with these cases --
2 you know, the quarterly reports are very clear about what --
3 you know, the results of what cases that are filed, you know,
4 what the case is about and what happened with it. Thank you.

5 MR. BREEN: Okay. Go ahead, Mr. Wright.

6 MR. WRIGHT: I apologize. I don't want to drag
7 this out further, but I'm a relatively intelligent guy, and
8 the forms, the instructions, the composite of laws is a 300-
9 page book. And I think those things really -- they were
10 overwhelming to me.

11 And you know, I have a special needs child and I've
12 got to work full time. My wife works full time. The ability
13 to take the time to figure out how to do it is really -- you
14 know, again, the ability to provide the information about
15 what the laws are, what the rights are can only help the
16 students and hopefully reduce the cost for OAH to -- you
17 know, to manage all these cases that don't have to go due
18 process hearing. Thank you.

19 MR. BREEN: Okay. And before I move to Southern
20 California members of the public, final call, committee
21 members, any more comments? Okay. And Ms. Johnson.

22 MS. JOHNSON: Just really quickly. I know you've
23 mentioned a couple of times that a whole bunch of these
24 things could possibly have been resolved without the need for
25 a due process hearing, but there is also already in place the

1 process for a mediation only where -- if parent, you know,
2 didn't want to hire a lawyer or felt overwhelmed by the large
3 potential of having a due process hearing, there is certainly
4 the option to have mediation only where no lawyers are
5 involved on either side, and it's just the opportunity for
6 the parents and the district to work with an Administrative
7 Law Judge to hopefully be able to resolve the case. And I've
8 found that in the districts that I work with to be effective
9 often.

10 MR. BREEN: Okay. And Ms. Murai from Southern
11 California Committee.

12 MS. MURAI: Well, I wanted to make two comments and
13 one comment is, I mean, I actually have a lot of parents that
14 have gone to IEPs and have disagreed but the bubble that says
15 that they consent is already marked and so they automatically
16 sign it, so they don't know about the due process, so I see
17 his need, but I think my concern has to do with if they
18 already don't know from that point, then how they are going
19 to know to go to OAH? I mean, I guess, you know, how would
20 they know to go to that website? That's just one concern.
21 The one suggestion that I have maybe is that I know I look at
22 a lot of websites now in court and they because of
23 multimedia, they have a lot of things like you can click on
24 you tube video, so maybe if OAH can or maybe even somebody in
25 the Committee could devise like a video to that to kind of

1 explain the process as well. I mean, there is, you know, --
2 Peter Wright has that due process hearing video that people
3 can get, but maybe something like that that's multimedia,
4 too, because I have read all those documents and, I mean,
5 it's -- for me I can understand it, but I can also understand
6 how it can be difficult especially if your home language is
7 not English.

8 MR. BREEN: Okay anymore Committee comments before
9 we open it up to the public?

10 MS. FOOTY: Just one.

11 MR. BREEN: Okay. Ms. Footy.

12 MS. FOOTY: Doesn't the CDE do their complaints but
13 also their --

14 MR. BREEN: Compliance complaints.

15 MS. FOOTY: Compliance but their whole -- that
16 department works closely with OAH or they've been trying to
17 and I know they field a lot of questions when parents have
18 concerns and they can tell parents, you know, you may want
19 this route or this route. They inform the school districts
20 already. I don't know if you're aware that that was
21 available as well.

22 MR. WRIGHT: I have personal experience that -- my
23 appearance was that while I was referred to someone who was
24 very helpful and explained to me what is FAPE and who to --
25 what's, you know, what about placement. That information was

1 not available. I left a message explaining that I had a week
2 to represent my child in a due process hearing and I needed
3 help and fortunately someone returned my call and -- but it's
4 not on their website you can -- but if the information -- the
5 point I was trying to make is, if the information is there,
6 let's get it. Let's put it together and bring it back to the
7 OAH and say, hey, here are the resources that are already in
8 place. Maybe you'd like to use some of this. That's all I
9 really -- the step where I'm at is just the fact-finding and
10 come back with some better detailed examples of what is
11 available for the OAH and the Committee to review and not
12 take all the time of this meeting. Thank you.

13 MR. BREEN: And opening it up to members of the
14 public. Mr. Royle, I didn't forget about you so do you still
15 have a comment?

16 MR. ROYLE: I do. I just want to address the
17 narrow issue of there being uncertainty that parents are
18 uninformed about due process in general. I work for Area
19 Board 10, we're a state agency that provides advocacy
20 services to children, adults and their families with
21 developmental disabilities. We regularly provide
22 consultations to family and guide them through the process
23 and it's a truism. We also provide trainings to families and
24 service providers as well, and it's a truism with us and our
25 many agencies. We're part of a state council, so we're a

1 statewide department and it's a truism there are vast
2 segments of the population who are completely oblivious to
3 the fact that due process exists, state compliance complaints
4 exist, that CDE has a line that you can call and so I just
5 want to narrowly address the fact that in our experience day-
6 to-day for years and years that there are many, many people
7 who are unaware of what mechanisms they can use to guide
8 themselves through the process.

9 MR. BREEN: Thank you, Mr. Royle. Any other
10 members of the comment that want to comment on Committee
11 member Wright's proposal? Okay. And I see Ms. Youngblood.
12 Go ahead Ms. Youngblood.

13 MS. YOUNGBLOOD: I just want to comment on the
14 comment that was made about (inaudible) calling. That it
15 refer back to the schools and the districts and the SELPAs.
16 We being the chair of my SELPA it's -- the law states that
17 the SELPA and the district are supposed to educate the
18 parents. This is already supposed to be going on. There's a
19 budget set for it, but that's not happening and it's not easy
20 to even get the SELPAs to want to, at the community Advisory
21 Committee meetings, to educate the members, so those things
22 are not going on, so to refer them back to a place where
23 they're not going to get information is kind of useless. So
24 if that also existed that would be helpful if a line like
25 that helped and then getting of course more people on those

1 Committees that would help enforce what's supposed to be
2 enforced would be good as well too because like, as he
3 stated, people don't know about Office of Administrative
4 Hearings. When they get handed that paperwork in their
5 meeting the parents don't read it. They don't even know what
6 it is. They find that if they read it there's useful
7 information in there, but they don't read it, so they don't
8 even know that, you know, these things are available to them.

9 MR. BREEN: Okay. Any other Southern California
10 public attendees want to comment? Okay. Judge Kopek, no
11 more So Cal comments.

12 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Graves here,
13 do you still have a comment?

14 MS. GRAVES: Yes.

15 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

16 MS. GRAVES: Yeah. I guess if Bob wants to bring
17 information about what other states are doing and circulate
18 it, I think that would be fine. I am very concerned about
19 promoting the notion that you don't really need a lawyer
20 until you find out your case is one of the handful that's
21 actually going to hearing. I think settlement discussions
22 really need counsel and there's the possibility for messing
23 up a child's education for years to come if those are not
24 handled adequately. And I also would be very concerned about
25 parents who call up OAH being told, well, have you really

1 tried to work out with your SELPA yet. I think they know
2 about those people. They've tried to go beyond that. I
3 think that's really pushing people into what could be very
4 coercive ADR arrangements.

5 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. It is -- I
6 must confess, Mr. Wright, it's not clear to me if we have a
7 proposal pending or not and there are lots of comments and I
8 guess if there is a proposal, it needs to be directed towards
9 OAH since the purpose of the Committee is to advise OAH
10 concerning its procedures and processes. So is there a
11 specific proposal that you want the committee to
12 (overlapping)?

13 MR. BREEN: Judge Kopek, this is Judge Breen. Can
14 I just make a clarifying comment?

15 ADMINISTRATIVE LAW JUDGE KOPEK: Well --

16 MR. BREEN: No, just to try and narrow down the
17 issue?

18 ADMINISTRATIVE LAW JUDGE KOPEK: Well, I'd like to
19 hear it from Mr. Wright.

20 MR. BREEN: Okay.

21 MR. WRIGHT: Can I ask Mr. Breen to restate it?

22 MR. BREEN: I'm just amplifying your comment, Judge
23 Kopek.

24 ADMINISTRATIVE LAW JUDGE KOPEK: If you want Judge
25 Breen to speak on your behalf, that's fine with me.

1 MR. BREEN: No, I'm not. Judge Kopek, the only
2 point I want to make is there is a distinction between
3 processes that are available from CDE, like the compliance
4 complaint process, and the processes of due process hearings
5 which are OAH's issue. That's all I was going to comment was
6 to make sure everyone is clear that we are not the mass --
7 OAH is not the overseer of all things education in California
8 and there are different avenues and we have one slice.
9 That's all I wanted to do clarify.

10 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Mr. Wright?

11 MR. WRIGHT: Thank you again. I would like to have
12 the vote that endorses the OAH exploring the ability to
13 provide, as you put it on the agenda, a dispute resolution
14 process helpline, just the facts and if the Committee and OAH
15 ultimately decides that they're interested in this, then I
16 volunteer to come back with a more comprehensive proposal for
17 our next meeting. So that's my agenda item.

18 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Mr. Wright,
19 my confusion with that is the Office of Administrative
20 Hearings' staff are available to answer questions concerning
21 the process, so although we don't have a designated helpline,
22 I guess I'm not clear what the difference is in that you can
23 contact OAH, because I know I've talked to people who have
24 called. I've provided assistance. Staff has provided
25 assistance. PJs have provided assistance, so what is it that

1 we're not doing that you want us to do?

2 MR. WRIGHT: I hate to be -- I don't want to be a
3 critic, but my own experience was there's a piece of -- one
4 of the rules or the law say that the OAH is going to provide
5 assistance with a response to a due process complaint that
6 the district files on the student, if I'm stating it
7 correctly. And the -- even though it's in the -- one of our
8 databases of rules, the bottom line was that the OAH would
9 not provide me with that and that my point of contact at the
10 OAH during this process was absolutely clear that there was
11 no -- he could not provide any advice, any information about
12 even an item that the rules say you're supposed to help me
13 with. And I don't want to make it negative but that was my
14 experience was that because of the policy that OAH cannot
15 provide any legal advice it's a -- instead of being able to
16 get the facts of, you know, what do I need to do, what's
17 available, you know, what are the processes that, you know,
18 what needs to happen it's a closed situation where they --
19 the policy is we cannot provide any information and, you
20 know, versus, you know, if you need help with your student's
21 assessment plan, here's the forms or here's the steps that
22 are needed. It's probably a -- I'm sure it's all available
23 for -- someplace for the students. I'm sure it is because
24 everybody follows the rules, right? They're got to be in
25 place but we don't do it, but for the student the parents to

1 get access to that information that they specifically need
2 out of that composite of laws is, you know, they -- some help
3 filtering that search, if you would, it would be valuable and
4 I think it would save OAH a lot of time processing, you know,
5 again, the issue, all the cases that OAH, the due process
6 hearings, you know, 2,151 year to date of those student -- an
7 example Sunday's comment about student, you know, filing for
8 mediation only. 50 students filed for mediation only and
9 17,024 students filed for a due process hearing and
10 conversely the results were that 778 were settled in
11 mediation and 883 were settled outside of mediation.

12 ADMINISTRATIVE LAW JUDGE KOPEK: Excuse me, Mr.
13 Wright.

14 MR. WRIGHT: And let me -- just one more thing.

15 ADMINISTRATIVE LAW JUDGE KOPEK: Mr. Wright, I'm
16 sorry, no. I need to cut you off. I am very sorry. I do
17 not at all intend to be rude. It's just that you've repeated
18 statistics before. It's not clear to me what the relevance
19 is in terms of what the connection, but what I'd like to do
20 is let's return. You've proposed a resolution that OAH
21 explore the ability to provide a dispute resolution process
22 helpline and if that's what you would like, it sounds like
23 that's the focus of what you would like the Committee to
24 consider. If that's correct, then maybe we should just go
25 ahead and vote on it. We've had extensive discussion at this

1 point and I think it seems as though it might be time to
2 vote. But before we do that I want to make sure that that's
3 the resolution or the proposal that you're offering and I'll
4 repeat it again. OAH should explore the ability to provide a
5 dispute resolution process helpline; is that correct?

6 MR. WRIGHT: Yes, ma'am.

7 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. So at this
8 point, since actually the proposal is -- seems to me was
9 represented by the agenda, I don't think there's a need to
10 second it, so unless anyone has any additional comments, it
11 sounds like we might be ready to go forward with the vote.
12 Okay. I'll turn it over to Judge Breen in terms of the vote
13 in Southern California.

14 MR. BREEN: Okay Judge Kopek and I did not see any
15 hands for comment, so committee members all in favor of the
16 proposal that OAH explore the possibility of a dispute
17 resolution process helpline, all in favor? We have one, Mr.
18 Wright. And opposed? We have Ms. Dalton. And abstentions
19 we have four. So one in favor, one opposed, four
20 abstentions.

21 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And Ms.
22 Graves, actually, let's -- I've been loose about including
23 you in Southern California before we go to Northern
24 California.

25 MS. GRAVES: Oh, no, sorry.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Your vote is
2 against?

3 MS. GRAVES: Yeah.

4 ADMINISTRATIVE LAW JUDGE KOPEK: So we will add Ms.
5 Graves to the no vote. Okay. So in Northern California
6 those in favor? Seeing none. Those opposed? Ms. Broussard.
7 And abstentions? Mr. Rezowalli, Ms. Sherman, Mr. Gibson, Ms.
8 Bean, Ms. English, Ms. Malloy. Okay. Thank you very much.
9 Moving on, this is the next item; excluded evidence in
10 administrative record of hearing and, Ms. Graves, you
11 proposed this item, so I will turn the floor over to you.

12 MS. GRAVES: Okay. This is something that someone
13 else asked me to raise and also I've experienced this myself.
14 I think that generally the pattern is that parents want more
15 information in the record than districts want and that
16 parents have larger evidence binders and parents want more of
17 it admitted, including things that they do not have time to
18 have witnesses talk about, either extensively or in some
19 cases at all, given their burden of proof and their
20 priorities in establishing evidence. So I think the kind of
21 evidence that I've seen excluded, which judges have not even
22 wanted to carry away with them, has been in three categories.
23 One is research and I just don't see any way to read idea
24 2004 without thinking that research is vital. There's no way
25 for many parents to get that in without using research in

1 written form. I think that districts have every ability to
2 provide research, as well, even if a judge isn't going to
3 realistically read everything. Just seeing which side wants
4 research considered and which side has nothing to contradict
5 it can be extremely informative both to OAH and any higher
6 tribunals, so I think it's important that families that can't
7 afford experts for whom there's no chance of reimbursement to
8 put in information personally, need to be able to get that in
9 written form and have it considered with whatever weight it's
10 entitled given the evidence before OAH and whatever expert
11 testimony they can produce. One other category of
12 information that's often excluded is parents want to go back
13 further in the child's educational history than the school
14 district contends is relevant. That information is typically
15 school records. There's no real question about authenticity.
16 It's very important to be able to establish whether the child
17 is on any kind of meaningful lifelong improvement trajectory
18 as we would hope for from special education. And the other
19 category is information of events after the meetings in
20 question and, you know, just recently the Ninth Circuit I
21 think has made very clear that the snapshot rule is not
22 nearly as absolute as a lot of people took Adams versus
23 Oregon as implying. So information that parents wanted in
24 about what happened after meetings has been excluded and some
25 of that is not even being available in any easy form for

1 review on appeal. I haven't gotten anything to the point at
2 which I had to tell a reviewing court that while there was
3 evidence that kept out and it's really crucial and now I need
4 to prove to you that we tried to introduce it and it was
5 excluded, but I think that would be a real mess. So I think
6 the simplest approach by far is for anything that a party
7 asks to be admitted to be put in the administrative record
8 and forwarded to any court if there's an appeal. Thank you.

9 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Just so I
10 understand, when evidence is offered, if it's not admitted it
11 needs to be in the administrative record?

12 MS. GRAVES: Right.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Before we go any
14 further that is what we should be doing, is that any piece of
15 evidence that is offered at a hearing should be identified
16 for the record and if the Administrative Law Judge rules that
17 the evidence is not admissible, that evidence should be and
18 it was always my understanding that it is included in the
19 administrative record. The only evidence that would not be
20 included in the administrative record would be evidence that
21 may be included in the binder, but it was never offered into
22 evidence. So, Ms. Graves, with that -- and to be honest when
23 you and I exchanged the email concerning this item I was very
24 concerned to hear that perhaps some of the judges were not
25 doing this and I checked with all of the PJs and informally

1 checked with some of the Administrative Law Judges. I
2 document do an entire roll call, but it was everybody's
3 understanding and practice that that's what we're currently
4 doing. So is there something we're missing or I don't know.

5 MS. GRAVES: I think the disconnect that often
6 parents don't have time to go over every document in the
7 child's -- you know, every IEP or they may have missed
8 something during testimony or they didn't call the teacher
9 who could authenticate that document. So from the ALJ's
10 perspective that document may not have been offered into
11 evidence. From the family's perspective they put into their
12 evidence packet. They think it's relevant. They want to be
13 able to point out an argument that the child has a lower goal
14 than they had seven years ago, but they didn't have anyone
15 specifically testify about it or their experts talked about
16 the underlying subject matter but only touched on, you know,
17 -- didn't touch on all the articles supporting their position
18 or only referred to something that's on one page of the
19 article, so a long time ago it was common at hearings to
20 simply have your evidence binder and the other side would
21 indicate if there was anything they objected to. Now, with
22 this document-by-document approach either through
23 inadvertence or through disagreements -- I mean, I've had
24 cases where the person talked about research, but we didn't
25 point to that document so -- in the evidence packet as they

1 talked about it, so the judge says, well, you didn't point
2 them to that piece of evidence so therefore you didn't offer
3 it at the appropriate time and therefore it's not part of
4 this. So I think the disconnect is what you're offering into
5 evidence.

6 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Okay.
7 Since this is a Southern California offered item, I will turn
8 things over to Southern California for further discussion.

9 MR. BREEN: Okay. Southern California Committee
10 members, any further comments on Ms. Graves' proposal or
11 statements? And starting first with Ms. Johnson.

12 MS. JOHNSON: It sounds to me like Ms. Graves is
13 talking about two separate potential issues. One, things
14 that have been offered into evidence and not admitted in
15 terms of someone has testified about it, it's in the evidence
16 packet, and there's an objection by the other side and it is
17 not admitted into evidence. First it's just documents that
18 are in evidence packet that no one talks about or discusses.
19 In my experience in hearing, the things that no one has
20 discussed or just are not admitted unless both sides agree
21 that they are, but what I did also want to comment on the
22 other end of that spectrum where something has been discussed
23 by a witness, has been offered into evidence and it has not
24 been admitted as evidence, the ALJs in my cases at the end of
25 the hearing have given those documents back to the parties

1 out of the evidence packets and they have not been maintained
2 and gone forward as part of the administrative record. So if
3 that is something that is supposed to be occurring, it has
4 not occurred in my recent experience.

5 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Johnson, I
6 don't want to put you on the spot, but I urge you to
7 communicate, if you would, the names of the ALJs to Judge
8 Breen or myself because that -- you know, the fundamental
9 role of an Administrative Law Judge is to create a record and
10 protect the record and the record needs to include every
11 document that was admitted -- I mean, that was offered, even
12 if it was not admitted, because obviously the fact that a
13 given piece of evidence is not admitted can be a reversible
14 error, so I really urge you to let us know so that we can
15 address retraining issues as necessary. Thank you.

16 MS. JOHNSON: And just to be clear, as the hearing
17 was going forward it was identified for the record, but at
18 the end of the hearing all of those documents that were not
19 actually admitted were taken out of evidence packets and
20 given back to the parties.

21 ADMINISTRATIVE LAW JUDGE KOPEK: That shouldn't be
22 happening.

23 MS. JOHNSON: Okay.

24 MR. BREEN: Okay. And anyone else on the Southern
25 California Committee? Okay. No further comments from the

1 committee members.

2 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. In Northern
3 California, any comments?

4 MS. BROUSSARD: I just wanted to clarify --

5 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Broussard.

6 MS. BROUSSARD: I'm sorry. Are we talking about
7 the difference between putting stuff in your evidence binder
8 and having it admitted whether you touch it or not or hanging
9 on to things where there's been a ruling it's not admitted?

10 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Graves?

11 MS. GRAVES: Well, I have a concern with anything
12 that's in an evidence binder which the other side has been
13 given timely notice that somebody asks to be admitted at any
14 point in hearing, including the end as you're wrapping up.
15 So and I think that I've had Sunday's experience as well, but
16 I am a little foggy about the details and I'd have to think
17 about it and I'm not prepared to name names at this time.
18 But I think I've seen both and I've definitely seen cases of
19 the latter where there were things that we tried to introduce
20 at the end because they had been touched on, but hadn't been
21 specifically marked during testimony that were excluded,
22 including things like reports by witnesses that they didn't
23 talk about, but we didn't point to that document while they
24 were doing so. I guess I'm confessing my incompetence here,
25 but anyway.

1 ADMINISTRATIVE LAW JUDGE KOPEK: So your primary
2 concern at this point is that if evidence is offered -- is
3 offered into the record and the Administrative Law Judge does
4 not admit it, that evidence needs to be included in the
5 administrative record for the purposes of review?

6 MS. GRAVES: Right.

7 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Okay. Any
8 further comments in Northern California? No? Any public
9 comments? No? Okay.

10 MR. BREEN: Okay. And Judge Kopek, we did not open
11 up for public comment in Southern California, so I did have a
12 hand up from Ms. Vanaman. Go ahead Ms. Vanaman.

13 MS. VANAMAN: Your Honor, I appreciate that it's
14 the policy and that what should be happening is what you
15 stated when you indicated what the policy was. It is not
16 what is happening. Matters that are identified, I believe
17 are identified properly, properly marked, but are not
18 subsequently admitted are not being included in the
19 administrative records and they in fact are being given back
20 to the attorneys to take home.

21 ADMINISTRATIVE LAW JUDGE KOPEK: Well, what I will
22 tell you is we are having a statewide meeting via
23 videoconference this coming Monday and I will conduct that
24 meeting and this item will be on the agenda and all
25 Administrative Law Judges will be reminded of this -- that,

1 again, that if evidence is offered into -- if an exhibit is
2 offered into evidence, it needs to be identified on the
3 record. If a ruling is made that it is excluded, that
4 identified exhibit needs to be included in the record and not
5 returned, shredded or otherwise eliminated from the
6 administrative record.

7 MS. VANAMAN: Thank you.

8 ADMINISTRATIVE LAW JUDGE KOPEK: I don't want to
9 interfere with any vote or any further discussion, but I just
10 wanted to let you know that we will be talking about this on
11 Monday. Okay.

12 MR. BREEN: Okay. Any other public comment from
13 Southern California? Okay. Seeing none, Judge Kopek.

14 ADMINISTRATIVE LAW JUDGE KOPEK: All right. It
15 looks like we are ready for a vote and starting in Southern
16 California and including Ms. Graves in the vote as well.
17 Actually, Judge Breen, I stepped on your toes in terms of
18 calling the vote. I'll turn it over to you.

19 MR. BREEN: Okay. Well, why don't you repeat the
20 proposal, Judge Kopek.

21 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

22 MR. BREEN: And I'll count votes.

23 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. I will do
24 that. The proposal is that any documentary evidence that is
25 offered to be admitted into the record should be identified

1 for the record and if the ruling is that the evidence is not
2 admitted, the evidence will be retained by the Administrative
3 Law Judge and included in the administrative record of the
4 proceeding.

5 MR. BREEN: Okay. Southern California, all in
6 favor? Okay. I've got three votes in favor.

7 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Graves?

8 MS. GRAVES: Yes.

9 MR. BREEN: That's four. Four with Ms. Graves.

10 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

11 MR. BREEN: Okay. Those opposed? No opposition
12 and abstentions, please, hands up and I have three
13 abstentions.

14 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All right.
15 Northern California, those in favor? And we have Molloy,
16 English, Sherman. That's three. Those opposed? None. And
17 those abstaining? We have Bean, Bruce, Gibson, and
18 Rezowalli. Okay. Thank you very much. Our next item is
19 also offered by Ms. Graves and it has to do with in camera
20 review of evidence.

21 MS. GRAVES: Okay. This is something that I was
22 asked to raise on behalf of someone else who reported an
23 experience in which the judge met with a witness privately
24 without any counsel present to look at documents that were in
25 dispute and made a decision, I assume, not to admit the

1 documents because I don't think this lawyer ever saw them.
2 So the concern was that if there's going to be in camera --
3 if there are going to be discussions with witnesses, counsel
4 for both sides should be present. Judges should not be
5 having ex parte communications with witnesses. And if there
6 is a need to review information to see whether it can be
7 admitted into a hearing, my suggestion would be that a
8 different judge look at that and see if there's some
9 legitimate basis for keeping information out of a hearing.
10 If there's some reason why it's felt that that can't be done
11 in the presence of both counsel. Ordinarily, I would think
12 that the hearing judge could make a decision on evidence
13 whether it was possibly not timely disclosed or something,
14 but if that's going to be done it should be with counsel
15 present.

16 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Any
17 discussion in Southern California?

18 MR. BREEN: Okay. Not from the committee members.
19 Do you want me to solicit public or do you want to go
20 Northern California Committee?

21 ADMINISTRATIVE LAW JUDGE KOPEK: No. Let's turn to
22 Northern California committee members.

23 MR. BREEN: Okay.

24 ADMINISTRATIVE LAW JUDGE KOPEK: Any discussion?

25 MS. MALLOY: I just have --

1 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Malloy.

2 MS. MALLOY: Thank you. With regard to evidence at
3 this in camera review, this is also under a mediation
4 processes and I just want to say that sometimes when you're
5 meeting with a mediator, you know, the mediator will work
6 with one party and then work separately with another party so
7 how it is that all the material is being proffered at the
8 same time is not necessarily what happens, so --

9 MS. GRAVES: I think that would be fine in
10 mediation. You're allowed to share information certainly
11 with a mediator.

12 MS. MALLOY: Right.

13 MS. GRAVES: This would only be with the judge in a
14 judging role.

15 MS. MALLOY: Okay. I just wanted clarification on
16 that point that we're not extending it to mediation. Thank
17 you.

18 ADMINISTRATIVE LAW JUDGE KOPEK: And I'll take this
19 opportunity to make sure that I understand what's been
20 proposed. I have -- there's two parts. One is that the ALJ
21 should not talk to any witness concerning evidence without --
22 outside the presence of both the attorneys; is that correct?

23 MS. GRAVES: Right.

24 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And then
25 the second part is if the judge felt it were necessary in

1 terms of taking a look at -- in the nature of a motion in
2 limine, that the decision should be made on that evidence
3 outside the presence of counsel, then another ALJ should be
4 brought in for the purposes of considering the evidence,
5 talking to the witness, if necessary, and making the ruling;
6 is that correct?

7 MS. GRAVES: Yes.

8 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All right.
9 So any public members -- any members of the public in
10 Northern California? Okay. How about Southern California?

11 MR. BREEN: Southern California folks, any public
12 comment? Seeing none, Judge Kopek.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Judge
14 Breen, why don't you conduct the roll call or the vote in
15 Southern California.

16 MR. BREEN: Okay. We're doing it as two proposals
17 or combined?

18 ADMINISTRATIVE LAW JUDGE KOPEK: It sounds to me,
19 Ms. Graves, that it's a unified proposal.

20 MS. GRAVES: Yes.

21 ADMINISTRATIVE LAW JUDGE KOPEK: So I would take
22 them together.

23 MR. BREEN: Okay. All those in favor of the
24 proposal in Southern California? We have one in favor.

25 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Graves, are

1 you in favor? And Ms. Graves.

2 MR. BREEN: I'm sorry. Two; Ms. Graves and I and
3 now they're coming. We also have -- our third is -- I'm
4 sorry. I got your first name but not your last name in my
5 head so --

6 MS. MURAI: Ms. Murai.

7 MR. BREEN: Ms. Murai, so three in favor. And
8 those opposed? No opposition. And that means we have
9 abstentions in Southern California.

10 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And in
11 Northern California those in favor? We have Ms. Sherman, Ms.
12 Broussard and Ms. English. Those opposed? Mr. Gibson. And
13 abstaining? Ms. Malloy, Ms. Bean, Mr. Rezowalli. Okay.
14 Thank you very much.

15 MR. BREEN: And I just want to let everyone know we
16 still do have a quorum so thanks all for attending. Ms.
17 Footy had given the OAH and the Committee notice that she
18 would have to leave early today, so she's going to depart the
19 meeting at this point.

20 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Terrific.
21 Thank you very much.

22 MS. FOOTY: Thank you.

23 MR. BREEN: Thank you, Ms. Footy.

24 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. We are
25 moving along to page limits for closing arguments and this is

1 presented by Ms. Graves.

2 MS. GRAVES: Yes. I would like OAH to set word
3 limits that are approximately equivalent to current page
4 limits. Once I've been threatened with sanctions for too
5 many footnotes which was rejected. However, a judge
6 commented in one of my decisions that I had improperly filed
7 a brief in excessive page limits by having too many footnotes
8 and as a result a federal judge denied any payment for the
9 weeks of work I spent on that brief, as well as seeming to
10 think that was a part of a general pattern of excess that's,
11 you know, probably going to put me out of this -- well, it's
12 a big factor in my moving out of state. The kind of comments
13 that come across towards parent lawyers is based, you know,
14 improper based on a directive which wasn't given are
15 extremely problematic for the ability of people to practice
16 in this field, so I would like to know what the rules are and
17 have judges accuse me of impropriety when they didn't give a
18 clear directive.

19 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Well,
20 there's two -- you propose that the judges provide word
21 limits rather than page limits. That was one.

22 MS. GRAVES: Yes. And the rest of is a comment
23 that --

24 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

25 MS. GRAVES: -- that if orders are going to be

1 given they need to be orders.

2 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

3 MS. GRAVES: And the comment is also that words
4 like impropriety and, actually, I had another decision where
5 a judge -- or actually, this is the same decision. A judge
6 called a theory that transition can be -- can often be
7 (inaudible) radical and unsupported and I'm sure that didn't
8 help me get paid either.

9 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Thank you.
10 And comments in Southern California, Judge Breen?

11 MR. BREEN: Okay. Any comments from the Committee?
12 Okay. Seeing none, Judge Kopek.

13 ADMINISTRATIVE LAW JUDGE KOPEK: And Northern
14 California, any comments?

15 MR. REZOWALLI: Guys, I'm just a little bit
16 confused. You said the words versus pages?

17 MS. GRAVES: Because footnotes are single spaced so
18 they have more worded on a page.

19 MR. REZOWALLI: Okay.

20 MS. GRAVES: So the theory is I had too many
21 footnotes and there was this line within the judge's mind
22 which I crossed.

23 MR. REZOWALLI: Okay.

24 ADMINISTRATIVE LAW JUDGE KOPEK: Any further
25 comments?

1 MS. GRAVES: That's what the Ninth Circuit does.
2 They give you a word limit (overlapping).

3 UNIDENTIFIED SPEAKER: My only comment would be
4 I've had different page limits in different hearings for
5 closing arguments based upon the complexity of the issues at
6 hand, the novelty of the issues at hand, etcetera. I would
7 only worry about then translating if the judge were willing
8 to, you know, raise or lower the limit in any certain case,
9 who's doing that math?

10 MS. GRAVES: Well, I guess another possibility
11 would be to set, you know, no more than 20 percent of your
12 paper can be single-spaced footnotes or double-spaced
13 footnotes so that it's all the same which I think is very
14 ugly and it bothers me esthetically, but at least that's
15 clear. I think it needs to be clear and not an undisclosed
16 limit. I think you can do the math once and it would be
17 there.

18 ADMINISTRATIVE LAW JUDGE KOPEK: Any other comments
19 in Northern California? Any public comments? No? Okay.

20 MR. BREEN: Okay. And in Southern California we
21 have a public comment from Ms. Vanaman. Go ahead, Ms.
22 Vanaman.

23 MS. VANAMAN: I am Valerie Vanaman. I think the
24 concern that I hear Ms. Graves enunciate is a concern that
25 many of us have. We really do want to follow the rules.

1 It's very difficult, however, to find ourselves with language
2 used against us such as it was improper or was somehow
3 overstepped the line when we don't know the rule is. So if
4 the rule was going to be a page limit and then the particular
5 judge in his or her discretion also has a limit on the number
6 of footnotes, I think that it's whether or not we can
7 calculate the number of words, we certainly should be clear
8 on what the rules are because it's quite draining of the soul
9 to find yourself inscribed in buckram as having done
10 something improper when in fact the rule was not enunciated.

11 MR. BREEN: Okay. Any other comments, Southern
12 California members of the public? Okay. Judge Kopek, I'm
13 not seeing any.

14 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. I think
15 we're ready to vote in Southern California.

16 MR. BREEN: Okay. And how about it Judge Kopek?
17 You kind of led the discussion. Do you want to reiterate
18 what we're voting on?

19 MS. GRAVES: Actually, can I change it a little
20 bit?

21 ADMINISTRATIVE LAW JUDGE KOPEK: Sure you can.

22 MS. GRAVES: Okay. So that any limitation on
23 footnotes shall be made explicit either in the form of a word
24 limit or percentage of pages or something. I think word
25 limit is a lot clearer, but any limitation on footnotes shall

1 be made explicit in a page limit.

2 ADMINISTRATIVE LAW JUDGE KOPEK: Is that in
3 addition to or replace of.

4 MS. GRAVES: Instead of.

5 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

6 MS. GRAVES: I'm replacing.

7 MR. REZOWALLI: So you're withdrawing the first
8 recommendation and putting a second one in. We want to have
9 a second on all that.

10 ADMINISTRATIVE LAW JUDGE KOPEK: So basically --

11 MS. GRAVES: Do I have a second in the first place?

12 ADMINISTRATIVE LAW JUDGE KOPEK: Well, we --

13 UNIDENTIFIED SPEAKER: I'll second.

14 UNIDENTIFIED SPEAKER: Oh, there you go.

15 MR. BREEN: Okay. We've got to slow down because I
16 think now that we've changed the proposal, I had -- I think I
17 saw a few hands with commentary and then that kind of
18 overlapped with some seconding going on, so let's walk it
19 back.

20 ADMINISTRATIVE LAW JUDGE KOPEK: Yeah. And
21 actually, since I know this issue came up whether something
22 on the agenda had to be seconded and I think in the past we
23 did do that. What I have done during this meeting is if it's
24 an item that's on the agenda, regardless of whether it's an
25 OAH item or a board member item, the assumption is that -- I

1 mean, there's an inherent second. I think it was important
2 enough to OAH. It was important enough to the board member
3 to discuss, so we'll discuss it and as long as the
4 recommendation is, you know, within the parameters of the
5 original item, we don't need it to be seconded. So I
6 appreciate that it was seconded. We certainly had lots of
7 discussion, which shows interest, but -- so that's the --
8 where I'm going at this point. And since it had been
9 modified, I think it's appropriate to open it up for
10 discussion. So I just want to reiterate the new proposal is
11 that if the Administrative Law Judge wishes to place a limit
12 on footnotes in the closing brief, it needs to be made
13 explicit, whether it's a word limit or percentage of a page,
14 but just that any limitation on the number of footnotes or
15 extensive footnoting needs to be clearly made by the ALJ when
16 the closing brief is discussed; is that it?

17 MS. GRAVES: Yes.

18 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

19 MR. BREEN: Now that we've reframed the proposal,
20 Southern California committee members, any comment on that
21 proposal? Okay. Mr. Wright.

22 MR. WRIGHT: Because I'm not an attorney, are there
23 limits on other documents beside the closing briefs that are
24 similar or is it just the closing briefs that have this
25 restriction?

1 ADMINISTRATIVE LAW JUDGE KOPEK: It's up to each
2 Administrative Law Judge, but I believe it's quite a common
3 practice that at the conclusion of the hearing the -- many
4 ALJs will identify parameters for closing briefs, including
5 the number of pages, along with sometimes identifying legal
6 issues that the judge would like to have briefed and that
7 type of thing, so the discussion is just within any
8 limitations placed on closing briefs in cases.

9 MR. WRIGHT: Thank you. Why doesn't OAH have one
10 rule for everybody? Is that -- that may not be a relevant
11 question based on me not being an attorney, but -- and you
12 don't need to answer it. I'll be quiet now. Thank you.

13 MR. BREEN: We'll be taking items for the next
14 meeting later on.

15 ADMINISTRATIVE LAW JUDGE KOPEK: Yeah. Any other
16 comments in Southern California?

17 MR. BREEN: Okay. I'm not seeing any hands for any
18 other comments.

19 ADMINISTRATIVE LAW JUDGE KOPEK: Does that include
20 the public as well? I think we have a hand.

21 MR. BREEN: And Ms. Murai wanted to second, but I
22 think we moved past that based on your comment.

23 ADMINISTRATIVE LAW JUDGE KOPEK: Right.

24 MR. BREEN: Judge Kopek had explained that if the
25 agenda items were on there, then we don't need seconding, so

1 that was new business items we need seconding. Okay. So we
2 don't --

3 UNIDENTIFIED SPEAKER: I think there was a hand
4 here.

5 MR. BREEN: And public comment, okay, from --
6 you're testing me on my LAUSD knowledge.

7 MS. HALL: Julie Hall.

8 MR. BREEN: I thought it was Ms. Hall. Okay. But
9 I didn't want to embarrass myself. Ms. Hall?

10 MS. HALL: We do agree that there should be some
11 kind of stipulated page limits and minimal footnotes if
12 possible, like 25 to 30 pages would seem reasonable for a
13 complicated case.

14 MR. BREEN: Okay. Any other public comments?
15 Okay. See none, Judge Kopek.

16 ADMINISTRATIVE LAW JUDGE KOPEK: All right.
17 Northern California, member comments on the revised proposal?

18 UNIDENTIFIED SPEAKER: Just to clarify. We're just
19 talking about if any other additional limitations on a
20 closing brief, that the -- that the ALJ would specify that.
21 We're not talking about switching out page limit for word
22 limit or anything else?

23 ADMINISTRATIVE LAW JUDGE KOPEK: No. All we're
24 talking about, if the judge feels that there needs to be some
25 type of limit placed on footnotes, that that be made explicit

1 and whether it's a page limit, a word limit, a percentage of
2 a page limit. Just that if that's going to be considered
3 that that be made clear in the judge's rule.

4 UNIDENTIFIED SPEAKER: Is there any reason now if
5 you're imposing a page limit on the closing brief if someone
6 could just ask you are there any other limits, not to use a
7 lot o footnotes or --

8 ADMINISTRATIVE LAW JUDGE KOPEK: Oh, certainly. I
9 mean, I'm certainly not --

10 UNIDENTIFIED SPEAKER: It can be addressed on a
11 case-by-case basis.

12 ADMINISTRATIVE LAW JUDGE KOPEK: I mean, when I was
13 doing hearings, as everyone would know, I had a whole litany
14 of things and I tried to make it as clear as possible. So I
15 certainly would, if for example, one of the parties either
16 needed to have the limits clarified, we would talk about and
17 occasionally we would have someone suggest a limitation and
18 we would discuss that, so I think that's certainly reasonable
19 within the judge's discretion. Any other member comments on?
20 Public comments on this?

21 UNIDENTIFIED SPEAKER: I have a quick question. If
22 you don't have an attorney. Let's say a parent is
23 representing themselves, then how does that work because they
24 wouldn't be able to quote (inaudible) being judged. How does
25 that affect that in the legal brief and how you would -- I

1 mean, the summary brief that you might give? Is that a
2 disadvantage to a parent if they don't have legal counsel due
3 to finances?

4 ADMINISTRATIVE LAW JUDGE KOPEK: Well, if the -- if
5 either party is not represented and the closing briefs are
6 discussed and, for one, if I were the judge and I wanted to
7 have limits, those limitations would be for both parties. So
8 to be perfectly honest, some of the strongest closest briefs
9 and arguments that I've received as a judge have been from a
10 parent without legal representation. But, you know, they
11 certainly provide whatever they want in their closing brief,
12 the argument about the facts and the law and would be
13 considered along with whatever the other side says.

14 MR. BREEN: And Judge Kopek, this is Judge Breen in
15 Southern California. We did have a low volume on the initial
16 question and there was a request that the question be
17 restated. I understood the member of the public in Northern
18 California to be commenting on the impact on self-represented
19 parent -- parent participants with things like with written
20 closing briefs and is there a disparity between what they're
21 able to do and attorneys. Is that an accurate recitation of
22 the commented?

23 UNIDENTIFIED SPEAKER: Yes.

24 ADMINISTRATIVE LAW JUDGE KOPEK: Yes, it is.

25 MR. BREEN: Okay. And do we need to hear anything

1 further now that we've had that? Mr. Royle?

2 MR. ROYLE: No.

3 MR. BREEN: Thank you for the clarification time,
4 folks.

5 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And we had
6 time for public comment in Southern California; is that
7 correct, on this item? I'm thinking it's ready for a vote in
8 Southern California.

9 MR. BREEN: No, we had public comment time.

10 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. So Judge
11 Breen, I guess we're ready for the vote then.

12 MR. BREEN: Okay. And now we are voting in favor
13 of a rule that if the ALJ wants to put a limitation on
14 footnotes and closing briefs that they shall be explicit
15 regarding the page or word count. All in favor? Okay. I've
16 got four in favor.

17 ADMINISTRATIVE LAW JUDGE KOPEK: And does include
18 Ms. Graves?

19 MR. BREEN: I'm sorry. You know, Ms. Graves, I
20 wish you were here. Five including Ms. Graves.

21 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And that's
22 unanimous?

23 MR. BREEN: No. We have an opposed -- no
24 opposition. And abstention? We have one.

25 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All right.

1 Northern California, all those in favor? We have Ms. Malloy,
2 Ms. English, Ms. Bean, Ms. Sherman and Mr. Rezowalli. And
3 opposed? None. Abstention? Ms. Broussard and Mr. Gibson.
4 Okay. The next item offered by Ms. Broussard is meet and
5 confer prior to filing a notice of insufficiency.

6 MS. BROUSSARD: I wanted to offer a suggestion to
7 OAH that they consider recommending -- and I wanted to use
8 the word recommend, not require, that a meet and confer
9 happen prior to either party filing a notice of insufficiency
10 in a case. Sometimes the notices of insufficient in my
11 experience are on a difference in opinion on the pleading
12 standard and kind of a legal issue. But every once in awhile
13 I will say that, you know, as I write a complaint and I read
14 it six times I totally think I understand it and I think it's
15 clear as heck to everyone who reads it and I'll get a notice
16 of insufficiency. I don't get a ton of them, but I'll get
17 one and every once in awhile I'll read it and I'll reread
18 what I wrote and I'm like, oh, yeah, that made sense to me
19 when I wrote it. I totally agree with them. I either got a
20 date wrong. I got a month wrong. I said something funky.
21 Maybe someone else's name appears in it. It doesn't happen
22 often but, you know, had they called me up, I would have --
23 or sent me an email or done something, I could have looked at
24 it and said, reread it, thought to myself, holy cow, this
25 does no longer make sense and either offered a change or had

1 a conversation with them about changing things. There's also
2 some times where there's a little bit of a discussion about
3 kind of the level of clarity in pleading and I'm not
4 suggesting that the two parties would come to agreement, you
5 know, all of the time, but I do think ten, 15, 20 percent of
6 the time, I think through an email, through a quick phone
7 call, through something, there may be some discussion that
8 would lessen the necessity for OAH to be ruling on things
9 that maybe didn't need to get ruled on where there would be
10 agreement and B, may make some clarification between the
11 parties possible and things might be able to move forward
12 sooner rather than later. So my proposal is that OAH
13 recommend that prior to filing a notice of insufficiency that
14 there be a meet and confer that could be a phone call, an
15 email, whatever, to give the parties time to try and resolve
16 it informally, if they so choose.

17 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Any
18 discussion by members in Northern California? Okay. Hearing
19 none. Southern California?

20 MR. BREEN: Okay. We have a comment from Mr.
21 Wright.

22 MR. WRIGHT: The meet and confer prior, is that
23 going to become ambiguous or is it going to be everybody gets
24 the same process on you get your notice of -- before you get
25 the notice of deficiency the ALJ is going to contact you and

1 say, hey, I'm going to file this and this is what's wrong
2 with it? That's what you're -- no? Okay.

3 (Overlapping)

4 MS. BROUSSARD: And the ALJ isn't the person who
5 does it. It's the opposing party. So somebody files, then
6 the opposing party has the opportunity to say it doesn't meet
7 the sufficient -- it's not sufficient under the law. My
8 suggestion is that prior to them filing a big motion, that
9 they call or email or somehow contact the other person and
10 say, hey, there's something I don't understand. There's
11 something -- I'm confused. I don't think -- you forgot the
12 phone number. The address doesn't seem right. Whatever that
13 is and give the person an opportunity, if they choose, to
14 correct it. They may choose to stand on what they filed.
15 Just an -- what I'm suggesting is a conversation.

16 MR. WRIGHT: To continue my comment, I had the
17 experience with the mediation where the district decided they
18 weren't going to allow it and same kind of situation where I
19 requested, the district says no and that's the end of it.
20 Would that same situation apply?

21 MS. BROUSSARD: I'm only talking about the limited
22 issue of prior to filing a notice of insufficiency by either
23 a parent or a district or a parent's attorney that there be a
24 meet and confer requirement, so I'm not talking about any
25 other time any other motions are filed.

1 UNIDENTIFIED SPEAKER: Recommendation.

2 MS. BROUSSARD: That there's a recommendation that
3 people use that process, not a requirement.

4 MR. WRIGHT: Thank you.

5 MS. BROUSSARD: I just think that it saves money
6 and I think it save time and energy on the side of OAH.

7 MR. BREEN: Okay. Any other comments from Southern
8 California Committee members? Okay. See none, Judge Kopek.

9 ADMINISTRATIVE LAW JUDGE KOPEK: How about public
10 members in Southern California?

11 MR. BREEN: Any comment on the NY proposal? And we
12 have Ms. Hall from LAUSD.

13 MS. HALL: Hi. I would have concerns about helping
14 the opposing party bring (inaudible) against the district.

15 MS. BROUSSARD: What do you mean helping? I'm
16 sorry. Can I just ask a question?

17 ADMINISTRATIVE LAW JUDGE KOPEK: Sure of course.

18 MS. BROUSSARD: What do you mean helping?

19 MS. HALL: In the process of conferring you have to
20 kind of figure out what the issues are and in so doing you're
21 helping to write the complaint. It would be a conflict of
22 interest.

23 MS. BROUSSARD: There's a meet and confer
24 requirement in most of regular law where someone just calls
25 and says I'm confused. If they say what do you mean about

1 the kid hasn't made progress in math. I don't think there's
2 anything stopping the other person from saying I think it's
3 clear the way I've written it. I'm going to stand on it. If
4 they say I don't know what you mean. You have the name Billy
5 Smith in here three times, but the kid's name is Abigail
6 something, then I think you go oh, hang on. I'll get back to
7 you. That's how I'm seeing it.

8 ADMINISTRATIVE LAW JUDGE KOPEK: Any further public
9 comment in Southern California?

10 MR. BREEN: Anyone else? Okay. Seeing none, Judge
11 Kopek.

12 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Graves did you
13 have a comment?

14 MS. GRAVES: A question, which is what would be the
15 mechanics for OAH making a recommendation, like would they
16 put that in the FAQ booklet online that maybe nobody reads?

17 MS. BROUSSARD: Yes.

18 MS. GRAVES: Okay.

19 MS. BROUSSARD: Or just make it known that in there
20 -- on the FAQ section, in the policies and procedures, maybe
21 in the thing that comes when there's a -- when a hearing is
22 filed, that that's, you know, a recommended piece.

23 ADMINISTRATIVE LAW JUDGE KOPEK: So the scheduling
24 order or something like that.

25 MS. BROUSSARD: That would be the words I wanted to

1 use but couldn't think of.

2 ADMINISTRATIVE LAW JUDGE KOPEK: Anything else?

3 All right. I think we're ready for a vote. Southern
4 California.

5 MR. BREEN: Okay. All those in favor in Southern
6 California?

7 ADMINISTRATIVE LAW JUDGE KOPEK: And Ms. Graves?

8 MR. BREEN: And recognizing Ms. Graves. This time
9 I got you. One in favor from Ms. Graves. Okay. Those
10 opposed? And I have four opposed. And abstentions is one.

11 ADMINISTRATIVE LAW JUDGE KOPEK: All right.
12 Northern California, those in favor? We have Mr. Gibson and
13 Ms. Broussard and Ms. Bean. And those opposed? Ms. English
14 and Mr. Rezowalli. And abstentions? We have Ms. Malloy and
15 Ms. Sherman. Okay. Thank you. All right. Now, it's back
16 to me again. I have an item. The Office of Administrative
17 Hearings is considering scheduling prehearing conferences on
18 Monday and Friday. We have not scheduled matters on Fridays
19 going back to the days of the furloughs and to be perfectly
20 honest, Wednesdays, which is the one day that has currently
21 both prehearing conferences and mediations is a calendaring
22 nightmare. So given that, at least for the time being, we
23 are working five days a week and I say that only because, at
24 least in Sacramento, the budget -- every time you read the
25 paper, the budget news gets worse and worse, but there's

1 nothing officially or not in terms of doing anything other
2 than working five days a week. But anyway, we are proposing
3 that we have prehearing conferences on Monday and Friday at
4 the current time of 10:00 a.m. and 1:30 a.m. and that
5 Tuesdays, Wednesday and Thursdays would be limited to
6 mediations. That would mean that the prehearing statements
7 would be due the prior Wednesday for a Monday prehearing
8 conference and the prior Tuesday for a Friday prehearing
9 conference. And we realize that having a Friday prehearing
10 conference would mean that if a due process hearing were to
11 start the following week, it would really cut timelines short
12 for preparing and whatnot. So if we do this we would in most
13 cases, assuming that we don't have timeline issues, that for
14 cases that have a Friday prehearing conference, the due
15 process hearing start not the week immediately following but
16 basically the second week after that prehearing conference.
17 I took a look at the data in terms of what this would do to
18 the calendar and basically with the adjustment of making sure
19 that Friday PHCs the due process hearing doesn't start the
20 following week, but the week after. I think basically it --
21 the huge impact is that it will free up Wednesdays so that we
22 have mediations only, particularly in Southern California
23 with LAUSD, Wednesdays are just -- every week we're just
24 sweating bullets, so that is the proposal. Are there any
25 comments from Northern California committee members?

1 MS. BROUSSARD: I would just say I really like -- I
2 find it hard to have prehearing conferences scheduled the
3 same day I have mediations, so I think for me it would be
4 easier as long as the caveat was in there that the Friday
5 prehearing conferences would be for hearings a week and a
6 half out or more than a week out.

7 ADMINISTRATIVE LAW JUDGE KOPEK: Anything else?
8 Okay. Southern California?

9 MR. BREEN: Okay. And starting with Southern
10 California committee members, any comments on that proposal
11 for Monday and Friday PHC scheduling by OAH? Okay. No
12 comments from the committee members.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And how
14 about public members in Southern California.

15 MR. BREEN: Okay. I do need to recognize our LAUSD
16 contingent. Go ahead.

17 MS. TOLESNIK: Now, this would help us greatly
18 because we're having some scheduling issues on Wednesdays and
19 pushing cases too far out.

20 MR. BREEN: Okay. So if you couldn't hear that
21 that was Ms. Tolesnik (phonetic) from LAUSD and this proposal
22 would be helpful to them for similar reasons about a
23 Wednesday crunch.

24 ADMINISTRATIVE LAW JUDGE KOPEK: Thank you. And
25 any comments in Northern California from the public? All

1 right. Terrific. Thank you very much. I appreciate -- I
2 figured since it was helping us so much with our Wednesday
3 calendar, I can only imagine what the Wednesday calendar for
4 the practitioners on both sides out there look like. So the
5 plan would be that we will start this beginning July 1 with
6 the new fiscal year. Okay. The next item is paperless
7 procedural safeguards and other documents.

8 MR. BREEN: Judge Kopek, this is Judge Breen in
9 Southern California. I'm just reading your first line. It
10 says see packet distributed to members and I may not have
11 done that, so I want to make sure if that's important for the
12 discussion that we make sure our members have the packet.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Well, I sent to
14 the members copies of everything.

15 MR. BREEN: Okay.

16 ADMINISTRATIVE LAW JUDGE KOPEK: And they should
17 have copies down there.

18 MR. BREEN: Great. Okay. Thank you.

19 ADMINISTRATIVE LAW JUDGE KOPEK: So I provided to
20 the members, and we have available here for the public as
21 well, a package of documents with sort of a cover page
22 describing who gets what. And these documents are part of
23 the opening process for cases, so when staff open a case and
24 schedule a matter and send out the scheduling order, they
25 send a variety of documents to the parties depending upon

1 which party it is and whether the student is represented or
2 not represented. Just briefly, everybody gets the request
3 for continuance form and the request to dismiss the due
4 process hearing. The students get notice of procedural
5 safeguards and a document called what is mediation to help
6 describe the process and let them know what to expect.
7 Students that are not represented will also get our list of
8 free and reduced costs of special education attorneys and
9 then the districts get a notice of a resolution session
10 outcome, which is data that we collect for CDE.

11 UNIDENTIFIED SPEAKER: Other than this opening
12 package and every other document that we send out in
13 connection with the matter we -- Special Education is
14 basically a paperless operation and we -- all of these
15 documents are available on the website and so what I -- we
16 are proposing is that we eliminate sending out this package
17 of documents, that, again, in connection with these
18 scheduling order, we will identify the documents and provide
19 the link and we will also indicate that we will make these
20 available upon request. So for those individuals who do not
21 have access to the internet or want a hard copy sent to them,
22 all they have to do is call the calendar clerk that's
23 identified and request these documents and they will be
24 provided. So any comments, discussion in Northern
25 California? Ms. Broussard.

1 MS. BROUSSARD: I agree that certainly for people
2 represented by attorneys or for districts that are often
3 involved in due process, that these documents are very
4 redundant and easily -- I go to a link and that's fine. I'm
5 concerned about not sending them to unrepresented parents and
6 I guess maybe the corollary to that would be small districts
7 that didn't routinely deal in due process, because there may
8 be changes to things in the time period since they've dealt
9 with it for -- I'm talking small districts. But for parents,
10 not everyone has internet access. Not everyone would go to
11 those links, so I would be in favor of not sending it to
12 students represented by attorneys and just sending the links.
13 Not sending it to your main big districts, but if somebody
14 hasn't had a due process hearing filed against them in like a
15 year or an unrepresented parent, I think they should still
16 get the documents.

17 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. So that
18 would be your recommendation?

19 MS. BROUSSARD: That would be my recommendation
20 because of the changes that may happen for districts and the
21 in case of unrepresented parent, they may not have internet
22 access and it may be cumbersome and I don't want to have
23 people taking buses to libraries to find out what their
24 rights are.

25 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All right.

1 Before we have any discussion, would there be a second on
2 that?

3 MS. MALLOY: Second.

4 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Ms. Malloy
5 has seconded it.

6 MR. GIBSON: When you say that, you mean what
7 (inaudible).

8 ADMINISTRATIVE LAW JUDGE KOPEK: I'm sorry. Yeah,
9 there was second to Ms. Broussard's --

10 MS. BROUSSARD: You're correct.

11 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. It's
12 seconded. Ms. Bean?

13 MS. BEAN: Just for clarification, would they still
14 be getting something in the mail saying where are the links
15 are or will it be sent digitally to them?

16 ADMINISTRATIVE LAW JUDGE KOPEK: Oh, no, they would
17 still -- the OAH proposal is that we would send them. It
18 would be included in the scheduling order which is -- tells
19 you when the dates are and also gives -- will give
20 information about preemptory challenges and basically
21 describes the process. In that scheduling order, we would
22 say, for example, you may receive a copy of the procedural
23 safeguards at OAH's website and we would actually give them
24 the link. Yeah.

25 MS. BEAN: Okay.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Any further
2 discussion on Ms. Broussard's recommendation? Ms. Bean?

3 MS. BEAN: Yeah. I just curious because I'm not
4 sure how the Office of Administrative Hearings would identify
5 which parents would be, you know, at the -- from the very
6 beginning would be representing themselves. Is there a -- do
7 they say that in what they initially send in or how would you
8 know who to send it to and who not to?

9 ADMINISTRATIVE LAW JUDGE KOPEK: Certainly if the
10 parent is the filing party, we would know because if they're
11 represented by an -- well, either the attorney is filing it
12 on behalf of the parent, so that's easy. Sometimes very
13 rarely though we will have a parent who will actually fill
14 out the form, but on the form they will indicate that they
15 are represented by an attorney, so that's easy. If a
16 district files, all we usually get is the information about
17 the student, so at that time we don't know whether they're
18 represented or not.

19 MS. BEAN: Okay.

20 ADMINISTRATIVE LAW JUDGE KOPEK: If we were to
21 follow this practice, I would say in that case we would --
22 any time if we don't know whether they're represented or not
23 we'll treat them like non-represented and send them the whole
24 package.

25 MS. BEAN: Okay. Thank you.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Ms. Graves?

2 MS. GRAVES: Do you know how much money would be
3 saved by this because it just seems like a pretty small
4 matter given the number of hearings and my concern is that
5 even parents who are represented need to understand the
6 process and they may not know that they need to understand
7 the process. So if they have a lawyer they not bother to go
8 printout stuff from the web, but it actually would be really
9 good for them to read it so if you save a thousand dollars
10 and significantly, you know, reduce, you know, ten parents'
11 understanding of the process that doesn't seem like a good
12 deal.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Well, in terms of
14 cost I currently -- I don't know. We could figure it out,
15 but what I can tell you since we get, what, close to 3,000
16 filings and this has gone -- this package, which I think Mr.
17 Wright earlier -- and I put it on double-sided paper and I
18 think most of it goes out in double-sided, but anyway times
19 two for each filing times multiple sheets, I mean, in the
20 course of the year it adds up. Now, in the course of a
21 multibillion dollar deficit to the state of California,
22 probably trivial, but I must say in terms of budget -- I've
23 been with the state for over 25 years. I've gone through all
24 sorts of budget problems. I mean, we are really getting down
25 to lean and mean where, you know, yippy we can order new line

1 pads. You know, there have been occasions when you'd be
2 recycling off the recycling box, so even if it's a couple
3 thousand dollars, a couple reams of paper it's significant.
4 Now, I'm not saying therefore we don't care if we're trashing
5 people's due process rights. You know, I want to make sure
6 that people get the information that they need to get and
7 that's -- the intent of this is to get the information to
8 them and if this is a way that would help that's
9 (overlapping).

10 MS. GRAVES: Yeah. Well, I guess another -- my
11 response to that would be, you know, people aren't going
12 memorize this stuff if they look at it on a computer.
13 They're going to print it out which is probably going to cost
14 them more than Xeroxing it and they're going to have to be
15 organized enough to have it with them or they might print it
16 out, you know, more than once. I guess I just -- it seems
17 like a case of displacing cost on to families, not really
18 saving money and probably increasing costs because parents
19 don't have (inaudible) skills in photocopying.

20 UNIDENTIFIED SPEAKER: My piece was to send it to
21 the parents, but not represented parents, because I have to
22 say for me in my practice, when they send my parents a
23 request for continuance form, no matter what, I have to warn
24 them now they're going to get and I don't want them to touch
25 it. A couple times I had parents like not check with me and

1 send in the continuance form because they're on vacation and
2 also the request to dismiss. I mean, that's something as a
3 represented -- I don't even want my clients having. I mean,
4 it's convenient for me to not have OAH send it out because I
5 don't know that they need it. An unrepresented parent I
6 think it would still go to, but as a represented parent I
7 just don't know that they need the request for continuance or
8 request for dismissal, or what is mediation. I kind of feel
9 like if they have a link to it, it's kind of my job to tell
10 them what it is, so it's kind of redundant for them to send
11 it out and for me to get that giant packet when I get the
12 facts with the scheduling order. I'd be happier with just a
13 scheduling order because it wastes my paper. That is just
14 me.

15 ADMINISTRATIVE LAW JUDGE KOPEK: Any other comments
16 in Northern California?

17 MR. BREEN: Hey, Judge Kopek, I just wanted to
18 represent Southern California. We did not have our committee
19 members weigh in even before we seconded the Broussard
20 proposal, so I've had some hands up here, starting with Mr.
21 Wright. I had three committee members hands during the
22 discussion.

23 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

24 MR. BREEN: So I held off, but I'm going to impose
25 some order.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Thank you.

2 MR. BREEN: Northern California, you're done.
3 Okay. Starting with Mr. Wright.

4 MR. WRIGHT: I wanted to further my more educated
5 members here, but I'll try and be brief. As a parent, I
6 think the parents should get the information as soon as
7 possible and the only way to opt out of delivery
8 electronically is for them to opt out and acknowledge the
9 fact that they're aware this information is available. As
10 far as a student represented by an attorney, to assume that
11 every attorney is an expert and knows this process is a
12 little bit -- I don't think that makes sense because my
13 uncle, he'll represent me. You know, to assume that because
14 the student has an attorney means that the student doesn't
15 need to get this information if they don't want it, is --
16 seems dangerous and unnecessary. The budget, you know, I'm
17 happy to see that we've gotten a lot seats filled at OAH and
18 it's great, but again, the sooner you can get this
19 information to the parent, what all this -- you know, my
20 whole issue about delivering the information, so that's my
21 point. Thank you.

22 MR. BREEN: Okay. Thank you, Mr. Wright, and then
23 Ms. Dalton you also had your hand up.

24 MS. DALTON: Thank you, Judge. Couple things.
25 Generally I'm 100 percent favor of paperless. We're moving

1 to it a lot in the clinic. It's true. It's small
2 incremental savings, but they really do add up. I thought it
3 was a great addition and, I'm sorry, I can't remember who in
4 Northern California mentioned it, that unrepresented parents
5 should still receive it. I think that's an expense we have
6 to do as a society or government or whatever word you want to
7 use. That said, I don't think any attorney needs it and with
8 all due respect, and it's very nice of you, Mr. Wright, to be
9 so thoughtful of attorneys who don't know what they're doing,
10 but they shouldn't be on that paper then if that's the case.
11 If somebody's uncle, you know, nice of you, but --

12 MR. WRIGHT: But then they got to sue the attorney
13 and they can't sue the district.

14 MS. DALTON: Whatever. I'm saying an attorney in
15 any school district and I would disagree with the earlier
16 comment. Any school district, I don't care how small it is,
17 they ought to know the procedural safeguards, so my comment
18 is that I think unrepresented parents should receive it in
19 the paper form. Nobody else does. I wouldn't (inaudible)
20 skip the fact of the procedural safeguards I'd appreciate it.

21 MR. BREEN: And we had another hand up, Ms. Murai.

22 MS. MURAI: I would just -- I think that, you know,
23 parents, represented or unrepresented, get it because I think
24 that, you know, even if they have the link, they're more
25 likely to want to print it out and they're going to have to

1 pay for the cost, so I just think that it's easier for them
2 to get it and I think that in terms of school districts and
3 attorneys I don't think they need to get it because they
4 should know (inaudible).

5 MR. BREEN: Okay. And now we also have committee
6 member Ms. Johnson.

7 MS. JOHNSON: I only just wanted to add that
8 perhaps if it was going to say in the scheduling order that
9 there were links, it could also say if you need a hard copy
10 mailed to you please call such-and-such number and then a
11 phone call could be made and then a hard copy could be sent.
12 That may it wouldn't necessarily be sent duplicatively, but
13 if someone didn't have access to the internet or didn't have
14 enough money to pay for the sheets of paper to print it out
15 they still have access to a hard copy.

16 MR. BREEN: And I believe, Ms. Johnson, that is the
17 proposal. In other words, the existing proposal is that the
18 scheduling order say if you want a hard copy and you don't
19 have internet access, call this number, we'll send it to you.
20 No problem.

21 MS. JOHNSON: Okay.

22 MR. BREEN: So that's the current OAH proposal.
23 Then just to recap for folks, the follow-up was Ms. Broussard
24 had made the comment that she felt that the OAH proposal
25 should be modified to include automatically sending the

1 information to pro pers and districts that have not had a
2 filing in one year, so that was the stated proposal. We had
3 OAH's proposal and that was Ms. Broussard's counter. Sorry,
4 Judge Kopek. I just had the recap right in mind.

5 ADMINISTRATIVE LAW JUDGE KOPEK: No. That's great.
6 Any public comments in Southern California?

7 MR. BREEN: Folks? Okay. Seeing no hands.

8 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. So I think,
9 at this point, what we should do is take a vote on Ms.
10 Broussard's recommendation and Ms. Broussard, it was -- would
11 you -- is this both parts of it one recommendation or are
12 they two separate recommendations?

13 MS. BROUSSARD: Well, I'll withdraw my previous
14 recommendation. As I've thought about it a little more and
15 heard a little more discussion. I think what makes sense is
16 that -- my recommendation would be unrepresented parties,
17 regardless of student or district, would get the full packet.
18 Represented parties would get the scheduling order with the
19 links. That would be my recommendation.

20 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Is there --
21 do we need to second that?

22 UNIDENTIFIED SPEAKER: I second.

23 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Thank you.
24 In Northern California, any discussion that hasn't been said
25 already concerning the revised recommendation on members?

1 Public members -- members of the public? Okay. Southern
2 California on the revised recommendation?

3 MR. BREEN: Okay. And a comment from Ms. Johnson
4 on the revised recommendation.

5 MS. JOHNSON: Just really quickly. If
6 unrepresented districts are going to get the full copy,
7 that's going to be any district who isn't the filing party,
8 because you're not going to know if they're represented by an
9 attorney when a parent files against them, so I would just
10 say that it would be unnecessary. Any district, even a
11 district, even a small district, is going to have access to
12 internet to look up the link if they're sent the document
13 with the links attached.

14 MS. BROUSSARD: I think that makes great sense. I
15 will modify my recommendation to only unrepresented parents.
16 I was just trying to spread the wealth.

17 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

18 MR. BREEN: And Judge Kopek, I have a few hands for
19 comments, so I'm going to hold fire for --

20 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Before you
21 do that, Ms. Broussard you have now -- you've withdrawn --

22 MS. BROUSSARD: Only unrepresented parents is my
23 recommendation --

24 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

25 MS. BROUSSARD: -- would get the full thing.

1 Everyone else would get the scheduling order and links.

2 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. So only
3 unrepresented parents get the full packet. Everybody else
4 gets the scheduling order with the links and the information
5 about getting hard copies if they wish to have them.

6 UNIDENTIFIED SPEAKER: And I second.

7 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. That's been
8 seconded. Okay. So I'll send it back to Southern California
9 for comments.

10 MR. BREEN: And keeping in mind Judge Kopek's
11 admonition, new stuff only and it's 12:35. I'll just note
12 that.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Thank you.

14 MR. BREEN: Okay. Ms. Murai?

15 MS. MURAI: One of the concerns I had, I was just
16 thinking right now, if unrepresented parents did -- or
17 represented parents that are not -- that are Spanish speakers
18 or that are, you know, other non-English speakers get it, the
19 link is kind of hard to find because if you go to the website
20 you have to push a button. You know, the website is in
21 English so you have to be careful to select the button to
22 know which -- you know, to get that document because the
23 document is not in that language. Does that make sense?

24 UNIDENTIFIED SPEAKER: No.

25 MS. MURAI: Yes? Okay. I mean, my concern about

1 that is that even if the parents are represented, yes, maybe
2 -- I don't even know if the scheduling order is in -- I think
3 the scheduling -- is the scheduling order in Spanish?

4 MR. BREEN: It depends.

5 ADMINISTRATIVE LAW JUDGE KOPEK: Yes. All of the
6 document -- well, the scheduling order should be translated.
7 All these documents that are available on the website are
8 available in English plus the six language common in
9 California.

10 MS. MURAI: Yeah. I think the thing is that when
11 you open the actual OAH website, you have --

12 ADMINISTRATIVE LAW JUDGE KOPEK: Right.

13 MS. MURAI: -- you have to know which document it
14 says and until you click on the link and download the
15 document link that's in the foreign language, but the actual
16 title of it is not.

17 ADMINISTRATIVE LAW JUDGE KOPEK: That's correct.

18 MS. MURAI: It's in English. So how would they
19 know if they're not -- if English is not their native
20 language, how would they know which document to download?

21 UNIDENTIFIED SPEAKER: If they're a represented
22 parent they should ask their attorney.

23 MS. MURAI: Well, they should, but at the same time
24 I just -- you know, I just think that it's -- it makes it
25 difficult. I mean, I -- I just mean, yeah, the language.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Further comments?

2 MR. BREEN: Okay. And Mr. Wright.

3 MR. WRIGHT: My experience with two different
4 school districts we ran out of money to continue to pay the
5 attorney that we hired initially and then we were on our own
6 and if we didn't get the information in the beginning because
7 we had somebody and then we didn't have somebody, whether we
8 fired them or we ran out of money personally, that's -- could
9 be a problem for the parents.

10 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All right.
11 Anything else? Okay. Let's take a vote in Northern
12 California. All those in favor of the recommendation that
13 non-represented parents continue to receive the full range of
14 hard copy documents?

15 UNIDENTIFIED SPEAKER: Ms. Kopek, there is a
16 comment from the public on --

17 ADMINISTRATIVE LAW JUDGE KOPEK: To be honest we
18 don't -- we don't have time at this point or can you
19 summarize it very quickly?

20 UNIDENTIFIED SPEAKER: Yes. Sure. Mr. Atwood, who
21 wants to be identified, says that he suggests adding to the
22 proposal that even the unrepresented be given the option to
23 opt out of the full packet.

24 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. All right.
25 All those in favor in Northern California? It is unanimous.

1 Southern California?

2 MR. BREEN: Okay. All those in favor of Ms.
3 Broussard's proposal? Okay. We have four in favor,
4 including Ms. Graves.

5 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Opposed?

6 MR. BREEN: Okay. And those opposed? We have Mr.
7 Murai and Mr. Wright opposed and that's it. That's our total
8 because Ms. Footy has left the meeting.

9 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Moving on,
10 changes to the initial scheduling order. I mentioned this a
11 couple times. Although the document is long, I'm proposing
12 it get a little bit longer just to clarify. So the
13 additional items is as to dual matters, expedited and non-
14 expedited cases. We are going to clarify that continuances
15 are only granted in expedited cases in exceedingly rare
16 circumstances. We are going to further describe the
17 peremptory challenge process that I talked about earlier
18 today. We were proposing with the -- should we decide to go
19 forward with the paperless, whichever version of it we
20 provide, if we do decide not to send hard copy documents to
21 some of the parties, we will include information about where
22 to get those hard copies. And we are also going to have a
23 section having to do with resources to let folks that receive
24 this know that the OAH website has things like the Special
25 Education laws, that OAH decisions and orders are available

1 and that the manual and other -- the FAQs and all that
2 information are also available on the website. And indicate
3 that if a party wishes to have a service of documents by fax,
4 which is also included as part of our scheduling order
5 package, that by doing so they agree to receive fax during
6 regular business hours from 8:00 a.m. to 5:00 p.m. Any
7 comments in Northern California? Public comment? Okay.
8 Southern California.

9 MR. BREEN: Okay. And we have a comment from Mr.
10 Wright.

11 MR. WRIGHT: My experience was when the district
12 filed against our son, that was an expedited hearing and said
13 here that there wouldn't be any continuances granted in that
14 situation. That's what -- if that's what you're suggesting,
15 I would say no to -- I say no to that, so if that's the
16 situation, that's my feedback.

17 ADMINISTRATIVE LAW JUDGE KOPEK: That you don't
18 want that information on the scheduling order?

19 MR. WRIGHT: I don't want to remove the ability to
20 get a continuance in an expedited hearing if it's still true,
21 as I recall, that when the district files against the student
22 that's an expedited hearing and there's 30 days to get a
23 decision made.

24 UNIDENTIFIED SPEAKER: Only in a discipline matter.

25 ADMINISTRATIVE LAW JUDGE KOPEK: No. An expedited

1 hearing has to do with discipline.

2 MR. WRIGHT: Okay. Was it 45 when the district
3 files it? It's not (inaudible).

4 ADMINISTRATIVE LAW JUDGE KOPEK: When a district
5 files a case there's no resolution session, so the 45 day
6 timeframe starts immediately. When the student files, it's
7 75 days to decision.

8 MR. WRIGHT: Okay. So again, I think that any
9 ability to shorten or eliminate, reduce the student's options
10 when they have to represent themselves against a district
11 needs to be eliminated because that's -- okay. Thank you.

12 MR. BREEN: Okay. Thank you, Mr. Wright. Any
13 other comments from Southern California committee members?
14 Okay. And -- I'm sorry, did Ms. Graves have a comment?

15 ADMINISTRATIVE LAW JUDGE KOPEK: Yeah, I'll get
16 when I get back to Northern California, but I guess --

17 UNIDENTIFIED SPEAKER: Well, she's half and half, I
18 guess.

19 MR. BREEN: Okay. We don't have further committee
20 member comments. Do you want to go through Nor Cal Committee
21 and then do public down here?

22 ADMINISTRATIVE LAW JUDGE KOPEK: Actually, why
23 don't you ask for the public now?

24 MR. BREEN: Okay. Any public input? Okay. Seeing
25 none, back to you.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Ms. Graves?

2 MS. GRAVES: Yeah. I have a concern about not
3 allowing continuances in expedited hearings. I had one of my
4 first expedited hearing needs involving a far away deaf
5 student with Spanish-speaking parents and there was no way I
6 could get experts. In fact, a local expert told me nobody
7 local would touch the case with a 10-foot pole. There was no
8 way I could basically handle the expedited hearing in time so
9 we wound up compromising a bunch of issues and we left some
10 other issues, but we were basically forced into a settlement
11 of what I thought were really good issues by the fact that I
12 couldn't do it that fast and we couldn't get a continuance.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

14 MS. GRAVES: And we were jointly agreeing to de-
15 expedite that.

16 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Let me --
17 there are two issues. All I'm saying, for the purposes of
18 the scheduling order, is that we are reciting the law
19 governing expedited hearings in terms of the fact that the
20 hearing has to start within 20 days of filing and that
21 ordinarily we cannot grant a continuance and comply with the
22 law. And so right now we've had some uncertainty with the
23 current scheduling order, so all we are doing is clarifying
24 the law about when expedited hearings have to be held and
25 whether or not continuances would be available, so it's not

1 about unexpediting. It's nothing other than clarifying what
2 the current law is. Any other comments in Northern
3 California? Mr. Gibson, did you have a comment?

4 MR. GIBSON: I just wanted to clarify that you were
5 just looking to further explain what the law is in the order
6 and not change any standards?

7 ADMINISTRATIVE LAW JUDGE KOPEK: Absolutely. Okay.
8 And public? Okay. Any comment in Southern California?

9 MR. BREEN: Last call. Okay. No further So Cal
10 comments.

11 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Let's take
12 a vote in northern -- well, actually, there's no
13 recommendation from the Committee, if I understand it.

14 UNIDENTIFIED SPEAKER: I agree.

15 ADMINISTRATIVE LAW JUDGE KOPEK: And that we send
16 courtesy copies by email. And so that would eliminate the
17 overnight mail. The other option would be that we serve by
18 fax or overnight mail and courtesy copy would be by email.
19 And we would not send anything by U.S. mail.

20 MS. BROUSSARD: Judge Kopek, could you explain what
21 things you send out by overnight mail?

22 ADMINISTRATIVE LAW JUDGE KOPEK: We send out --
23 anything that we are sending to the parties, we send
24 overnight mail if we are not faxing. I'm sorry. I just
25 received a note that the webcast is down.

1 UNIDENTIFIED SPEAKER: That's correct.

2 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Is it --

3 UNIDENTIFIED SPEAKER: It's also been spotty until
4 now, too.

5 ADMINISTRATIVE LAW JUDGE KOPEK: Wait. I'm sorry?

6 UNIDENTIFIED SPEAKER: It's been very spotty.

7 UNIDENTIFIED SPEAKER: We're back up right now.

8 MR. BREEN: Ms. Vanaman reports -- have you been
9 watching on your smart phone, Ms. Vanaman?

10 MS. VANAMAN: I have other people reporting to me
11 that it's (inaudible).

12 MR. BREEN: Okay. Someone is receiving reports.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Any idea how long
14 it might take?

15 UNIDENTIFIED SPEAKER: It should be upright now.
16 You might have to refresh and it should be up.

17 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. The word we
18 have from our technician is that we're back on the web and
19 Judge Varma just verified that, so thank you for getting us
20 back online. So the question was what we currently send by
21 fax?

22 MS. BROUSSARD: Overnight.

23 ADMINISTRATIVE LAW JUDGE KOPEK: Overnight. Anyone
24 who doesn't have -- can't receive fax gets everything
25 overnight.

1 UNIDENTIFIED SPEAKER: Oh that seems silly. Okay.

2 ADMINISTRATIVE LAW JUDGE KOPEK: So any other
3 comments in Northern California? How about Southern
4 California?

5 MR. BREEN: Okay. And starting with Mr. Wright.

6 MR. WRIGHT: I hate to be a special child, but in
7 February of 2010 when the district filed a due process
8 hearing against our son, it was sent regular mail and between
9 the Friday and the weekend, it was almost a week to get the
10 regular mail for the notice of, you know, the hearing, but I
11 don't know what has changed between February 10 and now, but
12 that's what happened to us.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Well, what I can
14 tell Mr. Wright that on occasion we -- staff make mistakes
15 and they don't go out GS mail -- I mean, GSO or overnight.
16 What I can tell you is that the policy is that if the parties
17 cannot receive it by fax it needs to go out by overnight
18 mail. So any other comments in Southern California?

19 MR. BREEN: And when you're ready, we have public
20 comments. Wait. We just got Ms. Johnson.

21 MS. JOHNSON: I know that overnight mail is really
22 expensive, but if it's a parent who isn't represented and
23 especially for things like motions, then I would think that
24 they'd have to get it for overnight mail because otherwise
25 there's no -- they're not even going to get it within

1 necessarily the three days that they have to respond to it so
2 it would seem like for any -- you know, any party who is
3 represented or has a fax or email that would be great, but
4 for those that we don't, it would seem like things would have
5 to go overnight mail.

6 ADMINISTRATIVE LAW JUDGE KOPEK: Actually, Ms.
7 Johnson, I appreciate your comment because what I forgot to
8 say was that if a party does not have email, we would be
9 sending it overnight mail.

10 MS. JOHNSON: Okay.

11 ADMINISTRATIVE LAW JUDGE KOPEK: Yeah. I
12 apologize. So the assumption is that email -- most people
13 have email and we've been having parties clamoring for us to
14 be sending stuff by email, but if email is not available, we
15 would use GS -- overnight mail.

16 MR. BREEN: Okay. We had another comment from Mr.
17 Wright and I am holding comments from the public. Go ahead,
18 Mr. Wright.

19 MR. WRIGHT: In my experience I didn't hear about
20 it, didn't know this -- the case had been filed until we got
21 the regular mail. OAH did not have my fax number, which I
22 have, did not have my email information, so it wasn't until I
23 got the regular mail that I learned that this had happened
24 and, you know, so if it's in the filing that you have the --
25 both parties contact information and it's just automatic,

1 great, but they didn't have it on mine until I provided it
2 after it had already been going on for a number of days.
3 Thank you.

4 MR. BREEN: Okay. Thank you, Mr. Wright, and
5 before we move to public, anymore Southern California
6 committee member comments? Okay. And starting with public
7 comments. Ms. Vanaman, you were first with the hand up. Go
8 ahead Ms. Vanaman.

9 MS. VANAMAN: I just -- to follow up on Sunday's
10 question and the response I'm not sure I understood. So the
11 policy would be that you do mail the original scheduling
12 order and the rest of this would be sent by email?

13 MR. BREEN: Okay. Ms. Vanaman is -- wants you to
14 reiterate the OAH proposal.

15 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

16 MR. BREEN: And heard it in terms of sending the
17 original scheduling order regular mail.

18 ADMINISTRATIVE LAW JUDGE KOPEK: What we're
19 proposing is that if parties have fax, we will serve by fax.
20 And one proposal is that if a fax is not available, we would
21 send U.S. mail and a courtesy copy by email. The other
22 option would be -- and that if they don't have email, they
23 would get overnight mail. The other option would be that we
24 would serve by fax or overnight mail with a courtesy copy by
25 email.

1 MS. VANAMAN: Now that I understand it, can I just
2 make one comment? It is the case that all of us make
3 mistakes and I think particularly when we're dealing with
4 large volumes of things, we all make mistakes. I think that
5 this would be fine as long as there was a recognition --
6 sometimes parents will get this material and not realize they
7 need to get to a lawyer for a couple of days and they have
8 not in fact gotten it by overnight mail and it really should
9 be good cause if that's the case to allow something to be
10 continued if the family just simply didn't get it and it was
11 -- they could demonstrate how it was in fact received.

12 MR. BREEN: Okay. And any further public comments,
13 the LAUSD contingent, Ms. Hall?

14 MS. HALL: The only concern we have, email is very
15 expedient so we do like that, but on occasion -- the issue we
16 would have with email would be that it's person specific and
17 so if you have turnover of staff or something come up in that
18 way, there might be an issue with delivery --

19 UNIDENTIFIED SPEAKER: Yeah.

20 MS. HALL: -- of the documents.

21 MR. BREEN: Okay. And now, that sparked some
22 thoughts from one of our committee members, Ms. Smith. Go
23 ahead.

24 MS. SMITH: Yeah. And actually, in a small school
25 district, if I were on vacation or was unavailable it would

1 be nice to have it sent to more than one person if it was
2 going to be email. Would that be a possibility if we gave a
3 back-up person's email address?

4 ADMINISTRATIVE LAW JUDGE KOPEK: Well, it's
5 certainly something that we can consider, but I want to
6 emphasize that the email is a courtesy copy, which means
7 you're going to be getting it by fax. If you have a -- you
8 know, most districts will receive it by fax and then you'll
9 get a email as a courtesy copy or you'll be getting it either
10 by U.S. mail or overnight mail if you don't have fax and then
11 the email is a courtesy copy. So the idea is that you're
12 getting it in two forms so that -- but again, the idea that
13 we could have more than one is certainly something that could
14 -- more than one email would certainly be something we could
15 consider. Any other comments from Southern California?

16 MR. BREEN: Okay. Seeing none, Judge Kopek.

17 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. We'll turn
18 to Northern California and Ms. Bean.

19 MS. BEAN: I think just to protect OAH, there
20 should be some system put in place. I like the whole
21 procedure of the email, but there should be some system of
22 confirm of receipt of that email either by phone call or, you
23 know, read receipt or something like that so that you know
24 that the person on the other end was the person who was
25 supposed to receive it.

1 ADMINISTRATIVE LAW JUDGE KOPEK: Yeah. To be
2 perfectly honest, some of those kinds of issues and technical
3 issues and those are the types of things that we have to
4 wrestle with that create additional problems by doing this.
5 And to be perfectly honest, it's why we've talked about it
6 for at least two years, so hopefully we're going to wrestle
7 with the issues and figure out what's the best system, but
8 there are definitely other problems that are created, so
9 thanks. Any other comments? We have a public member?

10 UNIDENTIFIED SPEAKER: When you said fax, you know,
11 if your fax isn't working, then you're stuck, you're not
12 going to know. Or if you're out of ink. But I think the
13 courtesy copy should go no matter what, whether you keep the
14 system you have or something else via email.

15 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. The comment
16 was that -- that faxes sometimes don't work or you might be
17 at work and not get the fax and so that the commenter was
18 suggesting that we continue to have a courtesy copy go in all
19 instances. Anything else in Northern California? Okay. If
20 I remember correctly we don't have a recommendation from the
21 Committee. I appreciate all your comments and that is the
22 end of the agenda. Oh, no, actually we have public comment.
23 Sorry. We have a short period of time for public comments.
24 We don't have anything coming in from the web, although I do
25 want to indicate that there was a public comment that came in

1 after there was discussion this morning and it concerns the
2 issue about the quorum and the commenter said, 'Since there
3 is no sign that there are two Advisory Committees maybe it's
4 not so safe that you need a quorum in both places unless
5 that's made clear in the bylaws,' so any public comments in
6 Northern California? None? How about Southern California?

7 UNIDENTIFIED SPEAKER: Oh, I had a question.

8 ADMINISTRATIVE LAW JUDGE KOPEK: Yes.

9 MR. BREEN: Okay. In Southern California, starting
10 with Ms. Vanaman.

11 MS. VANAMAN: I have a inquiry really more than a
12 public comment and I'd just like direction from the Office of
13 Administrative Hearings about how to manage something, I
14 suppose. We're finding that the website, in terms of the
15 cases and listing of the dates, is becoming somewhat
16 problematic to the extent where what we are being required to
17 do now is that at 9:00 o'clock in the morning we print out
18 the page of what it shows and at 5:00 o'clock in the
19 afternoon we print it out again, because what we're finding
20 is that events are showing up at 9:00 o'clock in the morning
21 and then may have disappeared by 5:00 o'clock in the
22 afternoon without either ourselves or the school district
23 taking any action to have that occur. And it is a somewhat
24 recent phenomenon and I don't know whether it's as a result
25 of staff changes that you're undergoing, but the end result

1 is we end up looking frankly stupid and we'd like to not be
2 in that position to the extent possible. And so if you could
3 give us any guidance on how much reliance if any we are to
4 put on what appears on the web pages, it would be helpful and
5 I did want to bring to your attention that there does seem to
6 be this problem taking place.

7 ADMINISTRATIVE LAW JUDGE KOPEK: I appreciate your
8 comment, Ms. Vanaman. What I would say is that if there is
9 something happening on the web calendar that you don't know
10 anything about, for example, things disappearing or things
11 moving around, that you contact the calendar clerk assigned
12 to that matter and find out what's going on. We have had
13 occasions recently due to new staff and due to the volume of
14 cases coming in where we have had some unfortunate scheduling
15 events and any assistance you can provide us by alerting us
16 to something going on that is, as far as you know, with your
17 case shouldn't be. I'm not talking about cases being
18 assigned to judges because that happens all the time, but the
19 only time a case should go off is if it's been continued and
20 hopefully if that's happened the parties know about it. So
21 if things like that are happening it would be very helpful
22 for us if you would let us know. But in terms of how much
23 reliance to have on that, I think that the idea of printing
24 it out in the morning and the evening is a good one because,
25 as you all know and I certainly know, things are extremely

1 fluid. But what I can say is with time we're getting staff
2 up to speed and hopefully things will be smoothing out, but
3 other -- I really do want people to let us know if there are
4 problems.

5 MS. VANAMAN: If I might just follow up on that?
6 If we -- our efforts to talk to scheduling people are
7 sometimes difficult as you know. They (inaudible) can't
8 always answer their phones. And then sometimes the answer
9 we've been getting is that we're not accurate and yet I'm
10 sitting there looking at the documents. Is there some way we
11 can all work together on this so that I'm not feeling like
12 I'm always being seen as some sort of a complainer or not
13 realistic? All I'm trying to do is follow the rules and I'd
14 like not to feel like I'm somehow making up a problem that
15 doesn't exist. And so anything you could do to help us
16 understand how to address this in a way that doesn't create
17 for us a sense that somehow, you know, we should be able to
18 read people's minds or do whatever it is that we are able to
19 do that?

20 ADMINISTRATIVE LAW JUDGE KOPEK: Certainly Ms.
21 Vanaman, absolutely. Any other comments?

22 MR. BREEN: Okay. And we did have Ms. Tolesnik
23 from LAUSD wanting to make a comment.

24 MS. TOLESNIK: I appreciate Ms. Vanaman bringing it
25 up, but unfortunately we've had some issues with her having

1 to shuttle back and forth where we've had some booking issues
2 and unaware of some mediations that were scheduled. We
3 appreciate the fact that you do have new stuff and there have
4 been some concerns regarding not knowing exactly who's
5 supposed to be in mediation and at what time and we're
6 looking forward to it ironing itself out.

7 MR. BREEN: And if that needed to be repeated, the
8 general gist of it was that from the Los Angeles Unified
9 School District's perspective they have felt a little -- they
10 have had a similar experience to Ms. Vanaman. They're
11 seconding her experience and have a similar concern that they
12 hope irons out.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Certainly
14 understood and we are doing everything we can to get things
15 back so that everybody knows where they need to be at the
16 correct time and are there when they need to be and I
17 appreciate everyone's patience and efforts to try to assist
18 us in that regard.

19 MS. VANAMAN: And we'd like to say thank you to the
20 mediators who have, during the last several weeks with us
21 while this has been occurring, gone above and beyond the call
22 of duty to work this out for us. They've been really
23 marvelous.

24 MR. BREEN: Thank you.

25 MS. VANAMAN: Particularly some of them who found

1 themselves doing four mediations in one day. It's been much
2 appreciated that they've been willing to do that.

3 ADMINISTRATIVE LAW JUDGE KOPEK: Thank you, Ms.
4 Vanaman. I really appreciate that because that is true. The
5 staff have really done whatever they can to try to step in
6 when need be, so, thank you. I'll pass that on as well.

7 MS. VANAMAN: Thank you.

8 MR. BREEN: Thank you, Ms. Vanaman.

9 ADMINISTRATIVE LAW JUDGE KOPEK: Any other
10 comments?

11 MR. BREEN: Anything else in Southern California?
12 Okay. No more comments, Judge Kopek.

13 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. And I
14 believe we have one comment here.

15 UNIDENTIFIED SPEAKER: Maybe it's an inquiry.
16 Maybe I should do it after I ask one of you, because I just
17 wanted to find out if a district is required to have a
18 resolution session and at least schedule one.

19 ADMINISTRATIVE LAW JUDGE KOPEK: Let's talk about
20 that afterwards.

21 UNIDENTIFIED SPEAKER: Okay.

22 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Okay.
23 Hearing no other -- we have nothing from the web; is that
24 right? Okay. No other public comments? I appreciate the
25 concern that was addressed regarding changing the Advisory

1 Committee meeting. I apologize for that. I take it at heart
2 and will try to keep to the tentative date which I'm
3 proposing, which is Friday October 5th and what I will
4 promise you is that if for some reason we are unable to go
5 forward on Friday, October 5th, that I will send out that
6 information to you as soon as possible with an alternative
7 date so that you can get that on your calendar.

8 UNIDENTIFIED SPEAKER: Thank you.

9 ADMINISTRATIVE LAW JUDGE KOPEK: Okay.

10 MR. BREEN: I believe one of our members had some
11 input about the date. Go ahead, Ms. Dalton.

12 MS. DALTON: May I now say something, Judge Kopek,
13 about the date?

14 ADMINISTRATIVE LAW JUDGE KOPEK: Certainly.

15 MS. DALTON: Does this mean we're not going to
16 consider the quarterly date?

17 ADMINISTRATIVE LAW JUDGE KOPEK: Well, that's
18 something that has been recommended and I will address that
19 in terms of the recommendations. I will try earnestly to get
20 that sooner, so if we decide to go with a different time
21 schedule, then we will propose a calendar on that.

22 MS. DALTON: Thank you.

23 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Ms. Graves?

24 MS. GRAVES: It would also be helpful for people
25 considering whether to apply to know whether it's a quarterly

1 or biannual commitment, so the sooner you can decide that,
2 the better.

3 ADMINISTRATIVE LAW JUDGE KOPEK: Okay. Thank you,
4 Ms. Graves. I appreciate that. okay. Seeing nothing else,
5 we -- wait, is there another comment? Okay.

6 MR. BREEN: No. There isn't. I've just got my
7 finger on the button. The meeting is adjourned. I want to
8 thank everybody for their participation.

9 MR. BREEN: Thank you.

10 (Thereupon, the meeting
11 was adjourned.)

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CERTIFICATE OF TRANSCRIPT

This is to certify that I, Stacy Wegner, transcribed the tape-recorded public meeting of the Special Education Advisory Committee dated May 4, 2012; that the pages numbered 1 through 128 constitute said transcript; that the same is a complete and accurate transcription of the aforesaid to the best of my ability.

Stacy Wegner

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May 25, 2012
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