

Special Education Advisory Committee
OAH Response to Recommendations from January 26, 2009 Meeting

The Office of Administrative Hearings (OAH) Special Education Advisory Committee held a joint meeting held on May 12, 2009, in Los Angeles and Oakland. The meeting was conducted via videoconference and was also available to the public through the OAH Webcast. The joint meeting followed the same agenda. At prior meetings, the Committees submitted written recommendations to OAH so that OAH could respond to suggestions from the Committee. The Committee did not submit any recommendations from the May 12, 2009 meeting. Listed below is a synopsis of what occurred at the meeting.

Role of the Advisory Committee

There was a general discussion by OAH about the role of the Advisory Committee. OAH noted that the Advisory Committee is advisory only about how OAH operates the special education due process program in California. The Committee is not an oversight or investigative body. OAH has no control over the California Department of Education and the procedures it follows. In addition, only subject matters that relate to the process are proper for the Committee to discuss. Matters concerning how the law should be interpreted or applied by OAH and its ALJs are not the proper subject for the Advisory meetings.

Intersection Question for CDE

CDE provided a presentation from Bob Morgan, a manager in the focused monitoring unit at CDE, about the process it utilizes when there is a case filed at OAH and a compliance complaint filed by CDE.

Pro Tem use during OAH training weeks

The Committee discussed and appeared to favor that OAH allow pro tem ALJs to mediate matters when OAH is not scheduling matters due to training. Currently, when OAH is closed for the mandatory training required by the Interagency Agreement, no matters are scheduled during that time frame. OAH invites the pro tem ALJs to attend the trainings and there are not enough pro tem ALJs available to maintain a regular schedule during the week of training.

Hearing Process

The Committee discussed the process when a party requests more than one initial day be set in the initial due process hearing request. The Committee appeared to disfavor adding additional days and believed that it should be agreed upon by all parties and that OAH should continue to set only one hearing day in the scheduling order. The Committee discussed that up to 5 days should be okay, but not more.

The Committee also discussed that OAH should explore using the Decisions by Settlement process more and that OAH should establish procedures for doing so. The Committee also expressed concerns that the same ALJ should be assigned to the PHC and DPH hearing. It was discussed that is the OAH preference, but that sometimes the hearing ALJ is not available and other ALJs are substituted when that occurs.

The Committee also generally discussed the Pilot Project, but there were no specific opinions one way or the other about how it was affecting the SE process.

Use of Email and Fax for service and receipt of documents

The Committee generally discussed that OAH should explore permitting Email filing and FAX service of documents both to and from OAH. OAH will explore this idea and will seek further input from the Committee when necessary.

Structure of Committee

The Committee discussed that it favored maintaining the then current structure of the Committee, with 1/3 rotating off each year. Applications were available for the applying for the next year since no decision on the committee structure had been decided upon.