

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

**Recommendations from October 9, 2015 Meeting**

The Office of Administrative Hearings Special Education Advisory Committee met on October 9, 2015, in Sacramento and Van Nuys. The meeting was conducted via videoconference and was also available to the public through a webcast accessed on OAH's web site. The joint meeting followed one agenda. During the meeting, the committee voted to make three recommendations to change or improve OAH's processes. After reviewing and considering the recommendations, OAH provides these responses.

**Advisory Committee Meetings**

Item 3g. *California Department of Education Attendance at Advisory Committee Meetings*

*Recommendation:* The Committee recommended that a representative from the California Department of Education be invited to attend, and the Committee requests the representative attend future Advisory Committee meetings. The recommendation passed in both Northern and Southern California.

OAH has informed CDE of the Committee's recommendation. CDE is aware of all Advisory Committee meeting dates and times, and can send a representative if CDE chooses. OAH does not have the authority to require attendance at the meeting by a CDE representative.

**Hearing and Mediation Processes**

Item 3h. *Continuances of OAH Special Education Matters*

*Recommendation:* The Committee recommended that OAH issue additional guidance regarding the standard for good cause in relation to joint requests for continuances. The recommendation passed in both Northern and Southern California.

OAH declines to adopt this recommendation. OAH currently has an established process for determining whether a joint request for continuance establishes good cause for a continuance. On a case-by-case basis, all relevant facts and circumstances are considered to determine if good cause has been established based upon the factors set out in the California Rules of Court, rule 3.1332(c). In light of the currently established motion practice process, additional guidance regarding the standard for good cause in relation to joint requests for continuances is not necessary.

*Recommendation:* The Committee recommended that there be a presumption of good cause when parties submit a joint request for continuance.

OAH declines to adopt this recommendation. There is no concept in the law of a presumption of good cause for a continuance. As with all motions, the moving party in a motion for a continuance has the burden to show that it has established all of the requisite elements necessary for the relief it seeks.

For initial joint requests to continue, OAH automatically grants the request as long as the parties propose hearing dates within 90 days of the original hearing date. For all other joint requests for a continuance, OAH determines good cause based upon the factors set out in the California Rules of Court, rule 3.1332(c). In light of the currently established motion practice and the law, OAH declines to establish a presumption of good cause based upon the parties jointly making a request to continue.

Item 3L. *Process for updating posted orders*

*Recommendation:* The Committee recommended that OAH post on its website the process by which it tracks the outcome of appeals of OAH orders during the pendency of the administrative matter.

OAH will adopt this recommendation. OAH is not always informed of appeals by parties of orders issued in special education cases. To the extent that OAH is made aware of an appeal and is able to track it, OAH will develop a process to make this information public on its website.