

EXHIBIT A

A. GENERAL SCOPE:

State and federal law provides that all children with disabilities are entitled to a free and appropriate public education under the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq., as amended by Pub.L. No. 108-446 118 Stat.2647, and Pub.L. 111-256, 124 Stat. 2643) and Part 30 of the Education Code, commencing with Education Code section 56000. Eligible students and their parents are entitled to procedural safeguards with respect to disagreements concerning decisions about assessment, eligibility, program development, placement, and a free appropriate public education. A request for due process, including mediations and administrative hearings, may be made pursuant to title 20 U.S.C. section 1415 et seq. and Education Code section 56500 et seq. The Department of General Services, Office of Administrative Hearings (OAH) agrees to provide such hearing and mediation services pursuant to and in accordance with the requirements of federal and state laws and regulations, including services specifically detailed in this agreement.

B. SUPPORT STAFF:

The OAH agrees to retain administrative, supervisory, information technology, and other support staff to operate the special education mediation and administrative hearing program, including staff who will: (1) provide detailed information to callers, including information regarding hearing procedures; (2) receive, calendar, monitor, and report on the status of cases for mediation and hearing; (3) issue notices, including notice of hearing date, mediation date, and pre-hearing conference date, as required by law or required to process mediations and hearings; (4) arrange for interpreters or special accommodations as needed; (5) arrange for written and/or electronic transcription of administrative hearings and distribution of the record thereof; (6) prepare cases for storage and maintain a closed case file inventory system for paper files that are created as part of its case management process; and (7) perform functions in connection with communication items identified in this agreement. The OAH will monitor, track, and manage cases in adherence with all federal and state laws and regulations. The OAH will also provide annual training to administrative, supervisory, information technology, and other support staff in the above areas. The training will include, but not be limited to, confidentiality of students' and parents' identities and information as provided for in Education Code section 56515.

C. QUALIFICATIONS, TRAINING AND OBLIGATIONS OF ALJs AND MEDIATORS:

1. (a) The hearing shall be conducted by an Administrative Law Judge (ALJ) knowledgeable in administrative hearings who satisfies the requirements set forth herein and who is employed by, or under contract with, the OAH.
- (b) ALJs shall be attorneys licensed to practice law in California for at least five years immediately preceding his or her appointment, of which at least two years shall have involved contested cases in a trial court or the conduct of formal hearings or inquiries,

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and shall have involved experience in the presentation of evidence and examination of witnesses before trial courts or quasi-judicial administrative bodies. Experience acquired as a hearing officer in formal quasi-judicial administrative proceedings may be substituted year for year for the required two years of experience.

- (c) In addition to the "Minimum Qualifications" as set forth in subsection (b) above, subdivision (c) of Education Code section 56505, and California Code of Regulations, title 5, section 3097, no ALJ may serve as an ALJ in a special education due process hearing until the Supervisor of the Division determines that the ALJ:
- (1) Possesses knowledge of the provisions of title 20 United States Code section 1400 et seq., federal and state regulations pertaining to that title, and legal interpretations of that title by federal and state courts;
 - (2) Possesses knowledge of the provisions of Education Code sections 56000 et seq. and related state statutes and implementing regulations, and legal interpretations of those statutes and regulations by federal and state courts;
 - (3) Possesses the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and
 - (4) Possesses the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.
- (d) Pursuant to California Code of Regulations, title 5, section 3098.2, subdivision (a), the OAH shall ensure every ALJ has completed at least 80 hours of training before conducting a due process hearing which shall include, but not be limited to, the following subjects:
- (1) Due process and the role of the hearing officer;
 - (2) Ethical requirements for hearing officers;
 - (3) Creating and maintaining a bias-free proceeding;
 - (4) Case management;
 - (5) Motions and other pre-hearing practices and procedures;
 - (6) Settlement practice;
 - (7) Hearing preparation;
 - (8) Making, completing, supplementing, and preserving a record;
 - (9) Opening and closing a hearing;
 - (10) Hearing room control and demeanor;
 - (11) Strategies for protecting the rights of parties not represented by attorneys;
 - (12) Dealing with a party's default;
 - (13) Handling and preserving documents and exhibits;
 - (14) Credibility of witnesses;
 - (15) Qualifying and evaluating expert witnesses;
 - (16) Common evidentiary issues in administrative proceedings;
 - (17) Closing briefs and arguments and submission;
 - (18) Writing decisions; and
 - (19) Resources for hearing officers.

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- (e) Pursuant to California Code of Regulations, title 5, section 3098.2, subdivision (b), as part of the 80 hours of training set forth in subsection C(1)(d) above, an ALJ's initial training shall include at least 20 hours of training in the adjudication of special education disputes, which may include practical, clinical, or simulated training, and which shall include, but not be limited to, the following subjects:
- (1) The substantive and procedural laws relating to the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA) (20 U. S.C. § 1400 et seq.);
 - (2) The substantive and procedural laws relating to 34 Code of Federal Regulations, part 300, commencing with part 300.1;
 - (3) The substantive and procedural laws relating to Education Code, title 2, division 4, part 30, commencing with section 56000;
 - (4) The substantive and procedural laws relating to California Code of Regulations, title 5, division 1, chapter 3, subchapter 1, commencing with section 3000;
 - (5) Federal and state statutes and regulations related to the laws and regulations identified in subsection C(1)(e)(1)-(4) of this agreement;
 - (6) Court and administrative rulings interpreting or implementing all of the above;
 - (7) Common disabilities and their impact on human functioning;
 - (8) The impact of common disabilities on students academic, developmental and functional needs in an educational environment;
 - (9) Disability awareness;
 - (10) Options for the accommodation of disabilities in education and elsewhere;
 - (11) Services and supports available to students with exceptional needs;
 - (12) Adaptation of general education strategies for students with disabilities;
 - (13) Participation of children with exceptional needs in special education disputes;
 - (14) Participation of parents, guardians, and representatives of children with exceptional needs in special education disputes; and
 - (15) Participation of teachers, instructional assistants, educational support personnel, and administrators in special education disputes.
- (f) Pursuant to California Code of Regulations, title 5, section 3098.2, subdivision (c), in addition to the initial 80 hours of training, an ALJ annually shall complete at least 20 hours of continuing education during each fiscal year. This continuing education shall include continuing education in the adjudication of administrative disputes and special education disputes, which may include practical, clinical, or simulated training, and which shall include, but not be limited to, the subjects set forth in the immediately preceding subsections (d) and (e).
2. (a) A mediation conducted pursuant to this contract shall be conducted by an ALJ or mediator knowledgeable in the mediation of disputes who satisfies the requirements set forth herein and who is employed by, or under contract with, the OAH.
- (b) A mediator shall hold a minimum of a Bachelor of Arts or Bachelor of Science degree from an accredited college or university and shall have completed the minimum training as provided in this agreement before serving as a mediator.
- (c) No ALJ or mediator may serve as a mediator in a special education mediation until the Supervisor of the Division determines that the ALJ or mediator possesses the

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skills and knowledge necessary to serve as a mediator, pursuant to the California Code of Regulations, title 5, section 3097.

- (d) A mediator of a special education dispute as described in this contract shall be knowledgeable in all laws and regulations relating to the provision of special education and related services, and in the process of reconciling differences in a non-adversarial manner.
- (e) Pursuant to California Code of Regulations, title 5, section 3098.1, subdivision (a), an ALJ or mediator shall have completed at least 20 hours of training in mediation theory, techniques, and practices, which may include practical, clinical, or simulated training, and shall include, but not be limited to:
 - (1) Mediation purposes;
 - (2) Evaluating cases for mediation;
 - (3) Mediation and mediator's ethics;
 - (4) Confidentiality in and after mediation;
 - (5) Negotiation theory;
 - (6) Approaches to conflict resolution;
 - (7) Preparation for mediation;
 - (8) Mediator's opening;
 - (9) Stages of mediation;
 - (10) Identification and narrowing of issues;
 - (11) Communications skills;
 - (12) Use of caucuses;
 - (13) Strategies for dealing with recurring mediation problems;
 - (14) Recognizing opportunities in mediation;
 - (15) Recognizing and dealing with impasse and closure;
 - (16) Multi-party mediation;
 - (17) Post-mediation issues; and
 - (18) Resources for mediators.
- (f) Pursuant to California Code of Regulations, title 5, section 3098.1, subdivision (b), in addition to the initial training identified in subsection C(2)(e) of this agreement and prior to conducting a mediation, a mediator shall have completed at least 20 hours of initial training in special education disputes, which may include practical, clinical, or simulated training, and which shall include, but not be limited to, those subjects identified in subsection C(1)(e) of this agreement.
- (g) Pursuant to California Code of Regulations, title 5, section 3098.1, subdivision (c), in addition to the initial 40 hours of training described in subsections C(2)(e) and (f) of this agreement, an ALJ or mediator shall complete at least 20 hours of continuing education during each fiscal year. This continuing education shall include training in mediation and the mediation of special education disputes, which may include practical, clinical, or simulated training, and which shall include, but not be limited to, further study of, and developments in, those subjects identified in subsections C (2) (e) and (f) of this agreement.

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3. OAH shall comply with the requirements of Education Code section 56505, subdivision (m), concerning a list of ALJs who conduct hearings under this contract. OAH shall comply with the requirements of 34 Code of Federal Regulations part 300.506(b)(3)(i) concerning a list of mediators qualified to conduct mediations under this contract. The lists shall include a summary of the qualifications for each ALJ and mediator and be available to the public upon request.
4. The OAH agrees to provide the California Department of Education (CDE), quarterly, with training logs for each ALJ and mediator, covering training and continuing education programs taken during the previous quarter. Logs will include the name of each ALJ and mediator who attended the program, the title and description of each program, the date of each program, and the number of hours of each program. The OAH shall maintain sufficient documentation that each ALJ has received the required training and continuing education programs and OAH will provide supporting documentation to CDE upon request. The documentation retained by OAH may include, but is not limited to, evidence of ALJ and mediator attendance at the programs, program agendas, program descriptions, etc. The OAH will make all required documentation and evidence of training and continuing education programs available to CDE for periodic review and reconciliation.

D. MEDIATIONS/DUE PROCESS HEARINGS:

1. The OAH agrees to maintain a Special Education Division for due process hearings and mediations. The OAH will assign a qualified ALJ to the hearing and a different ALJ or mediator to the mediation. In no case will the OAH assign an ALJ who facilitated a mediation to preside over a hearing in the same case.
2. (a) Pursuant to California Code of Regulations, title 5, section 3090.1, subdivision (b) a conflict of interest is a dealing or relationship that reasonably raises a question of bias. Pursuant to the California Code of Regulations, title 5, section 3099, the OAH shall require mediators and ALJs to prevent conflicts of interest. Any involvement by an ALJ or mediator with the subject matter of the dispute or any relationship between an ALJ or mediator with any party, prospective participant, or prospective witness, whether past or present, personal or professional, that reasonably raises a question of the ALJ's or mediator's impartiality, whether an actual or potential conflict of interest, shall be disclosed to the parties as soon as practicable after the ALJ or mediator becomes aware of such circumstance. After disclosure, the mediator or ALJ shall decline to mediate or adjudicate the dispute unless all parties choose to retain the mediator or ALJ. The OAH agrees to submit written reports to the CDE pertaining to instances of conflict of interest that have been substantiated after an ALJ has been assigned to a case. Reports will be submitted within five business days of conflicts being substantiated.
- (b) An ALJ assigned to a hearing is subject to disqualification for bias, prejudice, or conflict of interest in the proceeding as provided by Government Code section 11425.40. An ALJ assigned to a hearing is also subject to disqualification for receipt of an ex parte communication in violation of the provisions contained in California Code of Regulations, title 5, section 3084. The OAH shall submit written reports to the CDE pertaining to instances of conflict of interest under Government Code section 11425.40 that have

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been substantiated. Reports will be submitted within five business days of a conflict being substantiated.

- (c) Pursuant to Government Code section 11425.40, subdivision (b), it is not alone or in itself grounds for disqualification, without further evidence of bias, prejudice, or interest, that the ALJ:
 - (1) Is or is not a member of a racial, ethnic, religious, sexual, or similar group and the proceeding involves the rights of that group;
 - (2) Has experience, technical competence, or specialized knowledge of, or has in any capacity expressed a view on, a legal, factual, or policy issue presented in the proceeding; or
 - (3) Has, as a lawyer or public official, participated in the drafting of laws or regulations or in the effort to pass or defeat laws or regulations, the meaning, effect, or application of which is in issue in the proceeding.
 - (d) The OAH shall provide notice to the parties of the identity of the ALJ assigned to conduct a hearing at least five business days before the hearing, unless operational needs require otherwise, so that any motions regarding a conflict of interest may be timely made and heard.
 - (e) Pursuant to California Code of Regulations, title 1, section 1034, a party to a special education due process proceeding is entitled to one preemptory challenge (disqualification without cause) of an ALJ assigned to the due process hearing. Preemptory challenges, however, are not allowed in proceedings involving temporary or interim relief, including requests for stay put, and in no event shall a party be permitted to make a preemptory challenge after a due process hearing has commenced. If at the time of a scheduled prehearing conference an ALJ has been assigned to the hearing, any challenge to the assigned ALJ shall be made no later than the commencement of that prehearing conference. If OAH reassigns the hearing to another ALJ for a reason other than after granting a preemptory challenge, a preemptory challenge shall be made no later than noon the business day prior to the first scheduled day of hearing.
3. Pursuant to the California Code of Regulations, title 5, section 3084 there shall be no communication to a hearing officer, direct or indirect, while special education due process hearing proceedings are pending, regarding any issue in the proceeding, from an employee or representative of a party or from an interested person unless the communication is made on the record at the hearing. A proceeding is pending from the date of receipt by OAH of the request for hearing. If an ALJ receives a communication in violation of this section, the ALJ shall follow the procedures set forth in section 3084.
4. An ALJ or mediator assigned to a particular case will be responsible for managing mediation of the case through to either impasse or resolution and, if to a resolution, will be responsible for facilitating the process by which a written agreement of the parties can be prepared. A single paper or paperless case file may be maintained and may include materials related to both the mediation and hearing, but all materials related to the mediation will be sealed and not reviewed by or discussed with the ALJ presiding over a subsequent due process hearing if the matter fails to reach resolution during mediation.

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5. The OAH will conduct mediations and due process hearings at a location that is convenient to the parents or guardians and students as required by Education Code section 56505, subdivision (b), concerning the time and location of hearings.
6. Pursuant to the California Code of Regulations, title 5, section 3096 the OAH shall appoint a person or persons to supervise the mediators and ALJs dedicated to the mediations and due process hearings of Special Education disputes performed under this agreement.
7. (a) Pursuant to California Code of Regulations, title 5, section 3096.2 there shall be a supervisor of the Special Education Division who shall have at least eight years of experience in the practice of law in civil or criminal trial courts, appellate courts, or quasi-judicial administrative proceedings, including significant experience in special education matters. OAH will appoint the Supervisor of the Division on an exclusive and full-time basis. Pursuant to California Code of Regulations, title 5, section 3096.2, subdivision (c), the supervisor of the division, or his or her designee, shall:
 - (1) Decide when an ALJ meets the standards for ALJs as described in Section C of this agreement;
 - (2) Include the names and qualifications of ALJs who have met the requirements described in Section C on the public list of qualified hearing officers as maintained by the OAH, pursuant to 34 Code of Federal Regulations part 300.511(c)(3) and Education Code section 56505, subdivision (m);
 - (3) Supervise the work of all ALJs;
 - (4) Review and approve the training and continuing education programs required herein for ALJs;
 - (5) Evaluate each ALJ not less than once every twelve months; and
 - (6) Review the decisions of ALJs to ensure that they are clear, concise, logical, well-reasoned, supported by appropriate legal authority, and address all issues required to be decided.
 - (7) The OAH shall maintain a description of the quality control mechanisms used by the supervisor to ensure that hearings are fair and decisions are accurate. The OAH shall provide a copy of the description of the quality control mechanisms to CDE upon request and make the document available on the OAH website. The review of an ALJ's decision shall not involve altering the findings of fact, conclusions of law or hearing outcomes.
- (b) Pursuant to California Code of Regulations, title 5, section 3096.1, there shall be a supervisor of mediators, who shall have at least eight years of experience in the mediation of disputes arising before, during, or independently of, judicial or quasi-judicial administrative proceedings, including experience in special education matters. The OAH will assign the supervisor of mediators on an exclusive and full-time basis to administer the mediations. The supervisor of the Special Education Division may also serve in this capacity. The supervisor of mediators, or his or her designee, shall:
 - (1) Decide when a mediator meets the standards for mediators as described in Section C of this agreement;
 - (2) Include the names and qualifications of mediators who have met the requirements described in Section C of this agreement on the public list of

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qualified mediators as maintained by the OAH, pursuant to title 20 United States Code section 1415(e)(2)(c) and 34 Code of Regulations part 300.506(b)(3)(i);

- (3) Supervise the work of all mediators;
- (4) Review and approve the initial training and continuing education programs required herein for mediators;
- (5) Evaluate each mediator not less than once every twelve months; and
- (6) Review mediation results, to the extent practicable consistent with the need for confidentiality, to ensure that mediators perform competently in light of the standards and expectations set forth herein.

(c) The OAH will assign the Special Education Division ALJs and mediators to regional offices throughout the State who will be supervised by a local Presiding ALJ. The OAH will publish its organization chart. The chart shall be organized by regional offices and include the names of all special education ALJs and mediators who are OAH employees and assigned to each office. The OAH agrees to update the chart as needed. The OAH will assign Presiding ALJs on an exclusive and full-time basis to administer the hearing and mediation programs in their assigned offices.

8. The OAH agrees to make available to the public forms to request mediation or a due process hearing approved by the CDE. The forms will be available online and in print.
9. OAH shall comply with the requirements of California Code of Regulations, title 5, section 3095 concerning the availability of interpreters. Hearings and mediations shall be conducted in the English language. When the primary language of a party or a witness to a hearing is other than English, an interpreter shall be provided by OAH and shall be competent as determined by the ALJ or mediator. Cost for an interpreter shall be borne by the CDE. Interpreters shall take an oath to interpret the hearing fully and accurately.
10. The OAH, its ALJs, and mediators shall comply with all federal and state laws and regulations and legal authorities related to the timing and conduct of due process hearings and mediations, including the timing of expedited hearings, and the timeline for issuance of due process hearing decisions and their contents.
11. The OAH will ensure that a verbatim record of each hearing is made and that a transcript of these proceedings is made available to parents or students as appropriate, according to state and federal laws and regulations. Pursuant to Education Code section 56505, subdivision (e)(4), the verbatim record of the proceedings may be written or electronic, at the option of parents or guardians. OAH will produce a transcript of the proceedings within 90 days of receiving the request for a transcript. If a transcript is not available, the OAH will assist the parties in recreating the record. If a request for a transcript is made by a party to the matter other than the parents, the OAH will produce a transcript of the proceedings at a cost to the requestor not to exceed the actual cost to the OAH. If a transcript of the proceedings is available, the OAH will provide a copy of the transcript to a non-parent party to the matter at the cost of duplicating and mailing the transcript to the non-parent party.
12. The OAH shall archive all paper case-related records at the State Records Center in circumstances that ensure their confidentiality. OAH is not required to create or maintain paper records, documents or files that are not required as part of its case management processes.

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Paperless records will be maintained with the OAH databases. The OAH shall maintain a seven-year retention schedule for these paper and paperless records and shall cooperate and facilitate transfer authority over these records to the CDE upon completion or termination of this agreement. Paper case files will be stored in approved archive boxes with an index provided for each box. The OAH agrees, as necessary, to facilitate the CDE's access to mediation and due process hearing files stored in the State Records Center. The OAH also agrees to work with the CDE contract monitor and other CDE staff to resolve any accounting or billing issues related to the storage of records.

13. The OAH agrees that for any costs associated with complying with Education Code section 56505.1, subdivisions (e) and (g), it will provide documentation to support the particular costs, including, but not limited to, the name of the case and the name and hourly rate of the expert or witness.

E. COMMUNICATIONS/INFORMATION SHARING:

1. The OAH will, at least annually, update its Web site pertaining to the OAH Special Education Division and will allow the CDE to create applicable links. The OAH will provide the CDE with a liaison for issues pertaining to the Web site. The OAH will monitor its Web site for broken links and repair as necessary. The OAH will include on its Web site links to online legal resources including, but not limited to, applicable sections of the Education Code, the United States Code, California Code of Regulations, the Code of Federal Regulations, and the Federal Register. Included with each link will be a brief description of resources and their relevance to hearings and/or mediations. The OAH agrees to include on its Web site's *Contact Us* feature, additional language inviting the public to submit feedback and suggestions regarding the OAH, mediations, and hearings.
2. The OAH shall comply with the requirements of California Code of Regulations, title 5, section 3095 concerning the availability of forms and documents in different languages for all special education mediations and hearings. The OAH shall prepare forms and documents in English and, at minimum, the five foreign languages most commonly spoken in California schools as identified annually by the CDE. The OAH will publish on its Web site a list of all available and downloadable documents. The OAH Web site will include a feature for requesting, by language, available forms and documents. As forms and documents are translated into additional languages upon request, OAH shall post them on the web site.
3. Pursuant to the California Code of Regulations, title 5, section 3091 the OAH shall maintain and make available a consumer brochure and a Special Education Due Process Hearing and Mediation manual ("*Guide to Understanding Special Education Due Process Hearings*" or "Manual"). The consumer brochure shall provide a general overview of the due process and mediation process and assist interested parties to access these services. The Manual shall provide, at a minimum, detailed guidance in areas related to due process hearings and mediations to include, but not be limited to the following:
 - (a) How to file a due process complaint, including a model form to assist parents and guardians in filing a request for due process;
 - (b) A description of the due process hearing process;
 - (c) A description of the mediation process, including how to prepare for mediation and participate in mediation;

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- (d) How to properly communicate with the mediator, ALJ and other parties;
- (e) How to compel attendance of witnesses and compel production of documents;
- (f) How to prepare for a due process hearing;
- (g) How to properly present evidence;
- (h) How to access applicable statutes and regulations;
- (i) How to file and serve pre-hearing motions; and
- (j) How to research and locate special education decisions issued by the OAH.

The OAH shall prepare the consumer brochure and Manual in English and, at a minimum, the five foreign languages most commonly spoken in California schools as identified annually by the CDE. The OAH shall periodically review the consumer brochure and Manual and revise them as necessary.

4. The OAH agrees that when a party inquires about filing a complaint, the OAH will inform that party of the form used to request mediation and/or a due process hearing. The request for mediation and due process hearing form will include a written statement that assistance is available for preparing the form. Upon request, the OAH shall provide assistance to the public that shall be limited to an explanation of the process and documentation required to file a request for mediation or a due process hearing. Such assistance shall not include providing legal advice. The OAH additionally agrees to indicate that assistance is available to the public on its Web site. OAH shall comply with Education Code section 56505, subdivision (e)(6) concerning providing mediator assistance to a parent who is not represented by an attorney.
5. OAH shall comply with Education Code section 56504.5, subsection (d)(3), by providing electronic and hard copies of all hearing decisions to CDE. OAH shall also provide a written index of the decisions being provided, organized by students' names and case numbers. The copies of the decisions and the index shall be provided no later than the 15th of the month following the issuance of the decision.

The OAH will maintain a distribution list to send electronic copies of hearing decisions, with the students' names and districts identified, to CDE personnel as they are issued. The e-mail distribution list for CDE will include the contract monitor and all CDE Special Education Division Administrators/Managers. CDE will inform the OAH of necessary updates to the CDE email distribution list.

OAH shall comply with Education Code section 56505, subdivision (d)(5), by uploading all redacted decisions to its Web site on a monthly basis. OAH shall provide a link to the CDE Special Education Division Web site. The OAH agrees to conduct monthly audits to ensure that all special education due process decisions have been uploaded to its Web site.

The OAH will upload on its website, on a monthly basis, rulings on procedural or dispositive motions that the Presiding Administrative Law Judge of the Special Education Division deems to be of sufficient import to be of assistance to members of the public appearing before OAH on special education matters. Any such rulings may be cited as persuasive, but not binding authority.

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6. The OAH will maintain a "listserv" to allow interested parties to receive electronic copies of the decisions as they are issued. The OAH will post information regarding this listserv and instructions for inclusion on the listserv on the OAH website.
7. The OAH shall comply with the requirements of Education Code section 56502, subdivision (h). Upon receipt of a written request by a party for a due process hearing, the OAH will notify all parties of the request for the hearing and the scheduled date for the hearing and shall further notify the parties of their rights relating to procedural safeguards by providing them with CDE's "Notice of Procedural Safeguards."
8. Pursuant to California Education Code section 56502, subdivision (h), the OAH will publish and maintain a list of persons and organizations providing free or reduced-cost representation or other assistance in preparing for due process hearings. The OAH will publish this list by geographic area and provide this list to parents or students who are not represented at the time they file a request for a due process hearing, or upon request. Persons and organizations seeking to be added to the list shall self-certify that they meet the requirements of Education Code section 56502, subdivision (h).
9. The OAH will work closely with the CDE contract monitor and other CDE staff assigned to the contract. Unless specifically exempted, all definitions, policies, procedures, materials, and updates and amendments developed by the OAH, pursuant to this contract, must be reviewed and approved by the CDE before their implementation or publication. The OAH will provide the CDE with 15 business days to complete the review and approval process.
10. The OAH shall comply with its requirements under the Public Records Act pertaining to due process hearing and mediation information and records maintained by the OAH. If necessary, the OAH will work with and assist CDE personnel to ensure that requests under the Public Records Act are responded to appropriately and within the required timeframe.
11. The OAH and CDE, by signing this agreement, agree to cooperate, assist, and comply with any reasonable requests for information necessary to accomplish transition to a new contract at the termination of this agreement.
12. OAH will propose any suggested changes in the law regarding the special education dispute resolution program through CDE's contract monitor, except as provided in Government Code section 11370.5.

F. ADVISORY COMMITTEE:

1. Pursuant to the California Code of Regulations, title 5, section 3094 the OAH shall maintain an Advisory Committee composed of attorneys, advocates, parents, and representatives of the LEAs, including school districts, county offices of education or other public educational agencies that have jurisdiction under the IDEA. The majority of the advisory committee must be any combination of parents, advocates for parents, and/or attorneys for parents. The OAH is encouraged to consider the wide range of disabilities, ethnicities, races, socioeconomics, and other variables, within the special education population. The OAH shall establish the total number of members and the terms of appointment for the advisory committee. The OAH shall schedule meetings with the Committee, at a minimum, one in northern California and one in

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southern California, in the first half of the year, and one in northern California and one in southern California in the second half of the year, for a total of four meetings each year. OAH may conduct meetings of the Advisory Committee by videoconference. Meetings conducted by videoconference simultaneously in northern and southern California meet the requirement that meetings be held in both northern and southern California. The OAH may consult with the Advisory Committee, as needed, between semiannual meetings.

2. The OAH will publish the process for becoming a member of the Advisory Committee. The Advisory Committee is responsible for providing recommendations for mediations and due process hearing procedures. The Committee's recommendations shall not be binding upon the OAH.
3. The OAH agrees to publish and maintain a description of the role of the Advisory Committee on the OAH website. The OAH may publish, with subsequent revisions as necessary, the names and status (i.e., parent, student, attorney, advocate, etc.) of Advisory Committee members.
4. The Advisory Committee will comply with the Bagley-Keene Open Meeting Act, Government Code section 11120 et seq. OAH will publish the dates, locations, agendas, and a summary of items discussed and outcomes from all Advisory Committee meetings on the OAH website. Dates and locations of meetings will be published at least two months before meetings are held. The OAH shall consult with the Advisory Committee in developing all applicable meeting agendas and distribute agendas to its members and interested others, in advance of meetings. All Advisory Committee meetings will include a public comment period.
5. The OAH will consult with the Advisory Committee in areas such as, but not limited to, revisions to the OAH website, forms, documents, scheduling procedures, staff training, Special Education Due Process Hearing and Mediation Manual, consumer brochure, and outreach to families and students.

G. DATA COLLECTION AND REPORTING:

1. The OAH will provide CDE with read-only access to the OAH's special education case management system. Access will be provided to designated CDE personnel and subject to compliance with OAH's security protocols.
2. All data collected by OAH will be made available to CDE for placement on the CDE Web site.
3. OAH shall comply with Education Code section 56504.5, subsection (d), and California Code of Regulations, title 5, section 3092 concerning filing quarterly reports with CDE. Quarterly reports filed by OAH shall be received by CDE no later than 30 calendar days after the end of the quarter. For the purposes of this agreement, "quarter" refers to each one-fourth of the state fiscal year, which begins on July 1 of the previous calendar year and ends on June 30 of the immediately following year. Each quarterly report shall be sent to the contract monitor at CDE via electronic mail. The OAH shall make all aggregate data collected in the quarterly reports described by section G(3) of this agreement available on the OAH website, and make the data available for placement on CDE's website.

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Each quarterly report shall include the following information:

- a. Mediations: (1) Number of mediation requests total; (2) number of mediations not related to hearing requests; (3) number of mediations related to hearing requests; (4) number of mediation agreements related to hearing requests; (5) number of mediation agreements not related to hearing requests; and (6) number of mediations not held, including number of mediations pending.
- b. Due process hearings: (1) Number of hearing requests total; (2) Number of resolution sessions (3) number of settlement agreements; (4) number of hearings held (fully adjudicated); (5) number of decisions within timeline; (6) number of decisions within extended timeline; (7) number of decisions issued after timelines and extension expired; (8) number of hearings pending; (9) number of expedited hearings; and (10) number of hearing request cases resolved without a hearing.
- c. Expedited hearing requests (related to disciplinary decision): (1) Number of expedited hearing requests total; (2) number of resolution sessions (3) number of settlement agreements; (4) number of expedited hearings (fully adjudicated); and (5) number of changes of placement ordered.
- d. As required by Education Code section 56504.5, subsection (d)(1), each quarterly report shall contain data to provide CDE with information needed to comply with federal and state law for monitoring local programs. CDE shall inform OAH of the specific data required to comply with federal and state laws. Specifically, these reports shall provide the following data as requested by the federal Office of Special Education Programs and any state laws imposing a requirement upon CDE of reporting of data related to the above. The information shall include:
 - (1) The total number of cases won by each side.
 - (2) The number of issues decided in favor of each side in split decisions.
 - (3) How often schools and parents were represented by attorneys.
 - (4) How many prehearing motions were filed by each side.
 - (5) Which side won most of the prehearing motions.
 - (6) How many parent-filed requests for due process were dismissed for insufficiency.
 - (7) How often pupils of color accessed the system.
 - (8) How often non-English-speaking people used the system.
 - (9) How long the hearings took.
 - (10) How much of each hearing, on average, was consumed by the parent's, presentation of his or her case.
 - (11) How much of each hearing, on average, was consumed by the district's presentation of its case.
 - (12) How many of the hearing requests were from parents.
 - (13) How many of the hearing requests were from school districts.
 - (14) How many witnesses school districts called on average.
 - (15) How many witnesses parents called on average.
 - (16) From which districts parent-filed requests for due process came.
 - (17) What issues, within special education, generated due process hearing requests during the quarter.

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- (18) What disabilities generated due process hearing requests during the quarter.
- (19) What age groups (preschool, primary, junior high, high school) generated hearing requests during the quarter.
- (20) How many hearing decisions were appealed to court during the quarter.
- (21) How many cases were totally resolved in mediation by agreement.
- (22) How many cases were totally resolved in the mandatory resolution session.

Quarterly reports shall reflect data from the reporting quarter and cumulative year-to-date data. The OAH will ensure that each quarterly report contains all required elements and will immediately correct omissions or mistakes once they are identified.

- 4. OAH agrees to collect local resolution session outcome data on behalf of the CDE. OAH will implement changes to the Practice Manager System in order to collect information regarding mandatory local resolution sessions that districts are required to hold prior to a due process hearing pursuant to 34 Code of Federal Regulations, part 300.510, and Education Code section 56501.5. Upon completion of necessary changes to the Practice Manager System, OAH will send a resolution session outcome reporting form, developed in consultation with CDE, to districts with the initial scheduling packet that OAH disseminates to the parties upon receipt of a request for a due process hearing. The resolution session outcome reporting form will specify that CDE requires districts complete the form in its entirety and remit to OAH within 5 calendar days of the resolution session. Upon receipt of the completed resolution session outcome reporting form, OAH will enter the data into the Practice Manager System. Based on information collected from the districts, OAH will generate a report upon the CDE's request, but not less than quarterly, containing the following information:
 - (a) Student name;
 - (b) Case number;
 - (c) District name;
 - (d) Date district received notice of due process complaint;
 - (e) Whether or not a resolution session was held and, if not, for what reason;
 - (f) Date/s the resolution session meeting/s took place;
 - (g) Whether or not the matter was resolved during the resolution session meeting; (h) Whether or not the resolution session resulted in a written settlement agreement; and
 - (i) Whether or not the resolution session was waived, in writing, by both parties.
- 5. The OAH shall comply with California Code of Regulations, title 5, section 3092, subdivision (f), concerning new reporting requirements. The OAH shall report to CDE a timeline and mechanism to implement any new reporting requirements contained in the California or Federal current year's Budget Act, or any information that is required to be reported to a federal or state agency including, but not limited to, the Federal Office of Special Education Programs. The OAH must submit this report to the CDE within 60 calendar days from the postmark date of the CDE's written notification to the OAH of such a reporting requirement.
- 6. The OAH will develop, submit to the CDE for review and approval, and implement recommendations for system improvement.
- 7. The OAH will provide evaluation forms to the parties of a mediation or due process hearing. The forms shall contain questions aimed at assessing the OAH's timeliness and effectiveness.

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and are to be completed on a voluntary basis by the parties. The OAH shall review the forms and provide the CDE with a summary report of the evaluations, including cumulative information to date, on a quarterly basis.

8. The OAH will provide a quarterly report to the CDE contract monitor on the implementation of the interagency agreement. The OAH will report on a quarterly basis statistical data as determined and analyzed by the OAH, on the productivity of ALJs and mediators. OAH will use measurements, as determined by the OAH to quantify the "productivity" of ALJs and mediators. The quarterly reports will also include costs of hearings and mediations on both an aggregate and individual basis.

H. CONFIDENTIALITY:

The OAH agrees to comply with any provision of law concerning confidentiality of information or records relating to special education hearings and mediations including, but not limited to, Education Code section 56515. CDE agrees to comply with any provision of law concerning confidentiality of information or records relating to special education hearing and mediations that OAH provides CDE.

I. MONITORING, TRACKING, AND MANAGEMENT OF CASES:

1. The OAH shall permit the CDE to audit, review, and inspect the OAH's activities, books, documents, papers, and records during the progress of the work and for five years following final payment. All records, both paper and electronic, associated with mediations and hearings will be retained by the OAH for seven years. The OAH shall allow CDE staff to monitor ongoing work being performed under this agreement, including, but not limited to, training being provided to ALJs, mediators and administrative staff, supervisory, information technology, and support staff operating the mediation and hearing program.
2. The OAH shall maintain accounting records and other evidence pertaining to costs incurred and shall make them available to the CDE during the period of the interagency agreement and for five years after final payment on the agreement.

J. PROCEDURES FOR COMPLAINTS AGAINST OAH

Complaints alleged against OAH's procedures, policies, or practices received by CDE shall be directed to the CDE Contract Monitor for further review. The Contract Monitor will notify the Supervisor of the OAH Special Education Division of the complaint. Upon receipt of a complaint or upon CDE's request, the OAH shall conduct an investigation of the alleged incident, systems, procedures or policies in question and make a determination of the alleged events. Upon completion of the investigation, OAH will provide CDE with a written account of the investigation, findings, and the appropriate next steps or corrective actions taken to resolve the issue. CDE may provide additional corrective actions if appropriate.

K. THIRD PARTY RIGHTS

This Agreement is the entire agreement between the Parties concerning its subject matter, supersedes all prior agreements and understandings, whether or not written, and is not intended to confer upon any person other than the Parties any rights or remedies hereunder.

L. PROJECT MONITORS:

The CDE assigns **Stacey Wofford (916) 327-0844** as state project monitor to oversee this project. Said monitor is not authorized by the state to make any commitments or make any changes which will affect the price, terms or conditions of this agreement without a formal contract amendment.

The contractor assigns **Linda Cabatic (916) 263-0550** as contractor project monitor to oversee this project. Said monitor is not authorized by the state to make any commitments or make any changes which will affect the price, terms or conditions of this agreement without a formal contract amendment.