

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

POWAY UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012051032

ORDER REGARDING HEARING  
LOCATION AND PUBLIC HEARING

On May 24, 2012, Student filed a Request for Due Process Hearing, naming District as the Respondent. On May 25, 2012, Office of Administrative Hearings (OAH) issued a Scheduling Order setting the location for the hearing at District's offices in San Diego. On June 27, 2012, the matter was continued to the currently scheduled hearing dates. On July 24, 2012, Student filed a Motion to Change Venue and for Public Hearing, seeking to change the location of the hearing from District's offices to the OAH office in downtown San Diego. Parent also requested that the hearing be made open to the public.

Student's motion argued that District would have an advantage if the hearing were held at District offices, because their counsel, special education staff and office resources would be at their disposal. Student also argued that District's offices would not be a level playing field, and would be an inequitable and intimidating atmosphere.

On July 27, 2012, District opposed the Motion, arguing that a reasonable balancing of interests favored holding the hearing at District offices. District argued that parent's residence is within three miles of the District office location, but by contrast parent's residence was 24 miles from OAH's downtown San Diego location. District also contended that in addition to closeness, its location had ample parking and conference room space in which to hold the hearing, and thus was reasonably convenient to parent. District further contended that it would be unduly burdened by the requested change of location, in that the witnesses who are teachers and service providers would be required to travel to OAH offices which were located outside District boundaries, incurring time, mileage, and expense. District did not oppose the request that the hearing be made open to the public.

APPLICABLE LAW

Education Code, section 56505, subdivision (b), states that a due process hearing must be held "at a time and place reasonably convenient to the parents and child involved."

Education Code, section 56501, subdivision (b)(2) states that parents have the right to open the hearing to the public.

### DISCUSSION

The location of the due process hearing is not determinative of whether the due process hearing is conducted fairly. The ALJ hearing the matter in accordance with governing state and federal statutes and regulation is responsible for conducting a fair hearing at any location. The considerations of time, distance, fuel, mileage, parking and expense all dictate that District's offices, located within three miles of parent's home, are a reasonably convenient location. Thus parent's request to change venue is denied.

Parent's request to have the hearing public is granted, in accordance with Education Code, section 56501, subdivision (b)(2).

### ORDER

1. Parent's Motion for Change of Venue is denied.
2. Parent's Motion for Public Hearing is granted.

Dated: July 31, 2012

/s/

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JUNE R. LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings