

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

PAJARO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009080373

ORDER DENYING STUDENT'S
REQUEST FOR CHANGE OF VENUE

On August 12, 2009, Maria Ramos Wynn, attorney on behalf of Student (Student), filed a request for due process hearing (complaint) in which Pajaro Valley Unified School District (District) is named as respondent. Student's complaint includes a motion for change of venue (motion) which requests that the hearing in the above entitled matter be moved from Watsonville, California, to the Office of Administrative Hearings (OAH) office in Oakland, California.

On August 26, 2009, Diane Marshall-Freeman, attorney for the District, filed a response to the complaint, which includes an opposition to Student's motion for change of venue.

APPLICABLE LAW

Federal and state law provides that a due process hearing must be held in a place "reasonably convenient" to the student and parents. (Ed. Code, § 56505, subd. (b).)

Reasonably convenient does not mean that the hearing may be located anywhere that the parent decides is convenient. To be reasonable, there must be some balance of interest between what is convenient for the parent and child on one side and what is efficient for the district or other parties on the other side. Due process hearings are generally scheduled at either the office of the school district or at those of the SELPA. The school district that the student attends is likely to be reasonably convenient for the parents and the child since the child and at least one parent will generally live within the district's coverage area. Additionally, most of the representatives and witnesses in a case involving a school district will be close at hand if the hearing is located at that district (*Ocean View Elementary School District, et. al.*, SEHO Case No. SN 97-00069 (February 10, 1997)). An alternative to the district location is a local school within the district that has a room sufficient for a due process hearing.

DISCUSSION

Student alleges no factual basis for his request for change of venue, other than attorney convenience, to indicate why a change of venue is necessary, advisable or reasonably convenient to the parents and child. On the other hand, as the District notes, the proposed site for hearing in Oakland, California, is 85 miles from Student's home, while the District's office is located less than four miles from his residence. Additionally a majority of the anticipated witnesses are District teachers and employees who will bear the burden of excessive travel and time off from work in order to accommodate Student's unsubstantiated request.

ORDER

1. Student's request for change of venue to Oakland, California is denied.
2. The mediation and due process hearing on this matter shall take place at the Pajaro Unified School District, located at 294 Green Valley Road, Watsonville, California.

Dated: September 01, 2009

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings