

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

ROSEDALE UNION ELEMENTARY  
SCHOOL DISTRICT; KERN COUNTY  
OFFICE OF EDUCATION.

OAH CASE NO. 2010020271

ORDER GRANTING REQUEST TO  
OPEN HEARING AND DENYING,  
WITHOUT PREJUDICE, MOTION FOR  
CHANGE OF VENUE

On February 9, 2010, Student filed a request for a due process hearing with the Office of Administrative Hearings (OAH) naming the Rosedale Union Elementary School District (District) and the Kern County Office of Education as respondents. OAH issued an order scheduling a due process hearing on April 6, 2010, and a telephonic prehearing conference (PHC) on March 29, 2010. The location of the hearing is the District office located at 2553 Old Farm Road, in Bakersfield, California.

On March 3, 2010, Student filed a motion for change of venue and a request to have the hearing opened to the public. Student's moving papers acknowledged that issues of this type are usually addressed during the PHC. However, Student requested that a ruling on these two issues be made prior to the PHC, to avoid any delay in the due process hearing due to "the enormous amount of family and others that wish to give support" to the Student. Student seeks a change of venue for the hearing "to allow for enough room as the current venue is not set up for an open hearing."

No opposition or other response has been filed to the request to open the hearing or the motion to change venue.

APPLICABLE LAW

Education Code section 56505, subdivision (b), provides: "The hearing shall be held at a time and place reasonably convenient to the parent or guardian and the pupil." Among the rights afforded to the parent or guardian in a due process hearing is the right "to open the state hearing to the public." (Ed. Code, § 56501, subd. (c)(2).)

DISCUSSION

Student's parents have the right to open a due process hearing to the public and have exercised that right in the instant case. Although such requests are usually made during the

PHC, there is nothing to prevent such a request from being made and granted earlier. The request to open the hearing to the public is hereby granted.

A motion to change venue may also appropriately be made prior to the PHC, but Student's motion does not provide enough information to support the granting of the motion at this time. Student objects to the venue currently set on the basis that it is not large enough to accommodate an open hearing. However, Student does not provide any suggestions for an alternate venue. It is not clear whether Student is requesting that the hearing be moved to the OAH office closest to the District, that it be moved to a different room within the District offices, or that it be moved to a third, undesignated location. Student also does not specify the anticipated number of individuals who plan to attend the hearing as spectators or how large the room must be to accommodate them.

Student's motion to change venue is denied without prejudice. Student is free to raise the motion again with more information either prior to or during the telephonic PHC.

#### ORDER

1. The request to open the due process hearing in the above-entitled case is granted. The due process hearing shall be open to the public.

2. The motion to change venue is denied without prejudice.

Dated: March 15, 2010

/s/

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SUSAN RUFF  
Administrative Law Judge  
Office of Administrative Hearings