BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. SPENCER VALLEY ELEMENTRY SCHOOL DISTRICT,	OAH CASE NO. 2014030842
SPENCER VALLEY ELEMENTRY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2104030046 ORDER GRANTING STUDENT'S MOTION TO CHANGE MEDIATION DATE AND DENYING STUDENT'S MOTION TO CHANGE LOCATION OF MEDIATION

Spencer Valley Elementary School District (Spencer Valley) filed a Request for Due Process Hearing (complaint) on March 3, 2014, naming Student. On March 21, 2014 Student filed a complaint naming Spencer Valley. The Office of Administrative Hearings granted Student's unopposed motion to consolidate the two cases by order dated March 27, 2014, vacating all dates in District's case. The consolidated action is scheduled to be mediated on April 24, 2014 at the District's office located at 4414 Highways 78 and 79, Santa Ysabel, California 92070 (the District office).

On April 4, 2014, Student filed a Motion for Change of Mediation Date and Location (Motion). There is no declaration attached to the Motion. Student contends the parties have stipulated to advance the mediation to April 23, 2014. Student also requests the mediation venue be moved from the District office, to any one of the three locations: the SELPA office, the San Diego County Office of Education (COE) or the OAH San Diego Office (OAH). Student argues District's conference room is too small and in close proximity to Student's classroom where it might be unsettling for Student if he encounters his parents (Parents) during mediation. Student also claims he wants to mediate in a neutral location and it is more costly for his representatives to travel to the District office.

On April 9, 2014, District filed its Opposition. There is no declaration attached to the Opposition. District stipulates to move the mediation to April 23, 2014, but opposes changing venue. District contends Parents reside less than one mile from the District office

where their children also go to school. District contends there are no valid reasons why location of mediation should be changed to a location farther away from Parents' home. SELPA is approximately 18 miles from Parents' home. COE is about 50 miles from Parents' home and OAH is about 54 miles from Parent's home. District argues its offices are reasonably convenient for all parties and the convenience of Student's counsel is not a valid reason to change venue. District claims it has the facilities to handle the mediation and it is unlikely parents will encounter Student during mediation. District maintains the proposed locations are not convenient to it, including its Superintendent who may have to handle issues that arise during the mediation. District argues that pursuant to Education Code section 56500.3(h), mediations should be scheduled at a location convenient for both parties.

On April 10, 2014, Student filed his reply. There is no declaration attached to the reply. Student contends Education Code section 56500.3 (h) only applies to mediations held prior to the filing of a due process complaint. Student argues the mediation must be scheduled where it is convenient to Parents. Student maintains that on the day of the mediation, counsel will be in San Diego on another matter, his special education consultant resides in San Diego and Parents will be in San Diego to confer with their attorney and consultant. Student contends Parents are residing in a trailer because their residence is not habitable and filed an address change with OAH [listing a P.O Box in Santa Ysabel] after this action was filed. Student argues District counsel is located in San Diego and only the District Superintendent will be inconvenienced by changing the venue of the mediation.

APPLICABLE LAW AND DISCUSSION

The IDEA and the Education Code require that due process hearings be conducted "at a time and place reasonably convenient to the parents and child involved." (34 C.F.R. § 300.515, subd. (d); Ed. Code §56505, subd. (b).) Education Code section 56501 prescribes some of the due process hearing rights of parties, which include, but are not limited to "[t]he right to a mediation conference pursuant to Section 56500.3" and [t]he right to request a mediation conference at any point during the hearing process." Notwithstanding subdivision (a) of Section 56500.3, attorneys and advocates are permitted to participate in mediation conferences scheduled *after* the filing of a request for due process hearing. (Ed. Code §56501, subd. (b)(2).) Education Code section 56500.3 (h) specifically provides that mediation sessions shall be held in a place "reasonably convenient to the parties" to the dispute.

Student has failed to establish that the District office is not reasonably convenient to the parties for purposes of holding the mediation. None of the reasons Student offers for changing venue are supported with evidence or necessitate a change in location based upon "reasonable convenience." While a neutral setting and larger offices may be desired by all parties, it is not a legal basis of reasonable convenience which is necessary for a change of venue. Further, as District points out in its opposition, Student has no reason to enter the rooms where the mediation is scheduled. Even if Student did catch a glimpse of Parents, there is no evidence Student would be "side-tracked" or how this makes the District office location less convenient for mediation. Similarly, the fact that a location change might more

convenient for Student's representatives or cause them to bill less travel time fails to establish that the District office is not reasonably convenient to Student or Parents. In fact, without any evidence to the contrary, the distance itself between Santa Ysabel [where Parents receive mail, where their children regularly attend school and where Parents apparently reside] and the locations proposed by Student, necessarily dictates finding the District office reasonably convenient to Parents. Apparently, the only reason Parents are going to be in San Diego on the day of the mediation is to meet with their counsel and consultant about this case. This fact fails to establish that the District office is not reasonably convenient to Student or Parents since this alleged meeting could take place telephonically or anywhere in Santa Ysabel. The parties to this dispute are located in Santa Ysabel where the mediation is scheduled to take place. Accordingly, the mediation will occur in a place "reasonably convenient to the parties."

ORDER

1. Student's motion to advance the date of the mediation from April 24, 2014 to April 23, 2014 is granted.

2. Student's request to change the location of the mediation is denied. The mediation will proceed on April 23, 2014 at Spencer Valley School District, 4414 Highways 78 and 79, Santa Ysabel, CA 92070.

DATE: April 15, 2014

/s/
LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings