

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SILICON VALLEY FLEX ACADEMY and
EL DORADO COUNTY CHARTER
SPECIAL EDUCATION LOCAL PLAN
AREA.

OAH Case No. 2015060443

ORDER DENYING WITHOUT
PREJUDICE MOTION TO CHANGE
VENUE OF HEARING

On July 15, 2015, Silicon Valley Flex Academy filed a Notice of Hearing Location, in which it stated that all three parties to this matter have agreed to change the location of the hearing from Silicon Valley Flex's campus to a hotel in Morgan Hill, California, based upon a request made by Student's parents to Silicon Valley Flex. The notice informed the Office of Administrative Hearings that the parties had therefore unilaterally changed the location of the hearing. Silicon Valley Flex stated that Student's parents requested a hearing location that was more neutral than the Silicon Valley Flex campus. Silicon Valley Flex provided copies of correspondence between the attorneys for all parties indicating agreement with the change in location. Silicon Valley Flex did not provide any declarations in support of its notice.

OAH has treated Silicon Valley Flex's Notice as a Motion to Change Venue for the hearing.

Federal and state law provides that a due process hearing must be held in a place "reasonably convenient" to the student and parents. (34 C.F.R. § 300.511(d); Ed. Code, § 56505(b).)

Here, Student's parents have made the request for a change in location, and do not contend that the proposed location is inconvenient to them. However, the parties have failed to provide any declarations in support of the request that address whether the proposed location meets the following criteria necessary for an OAH due process hearing:

1. Restrooms readily available for all parties;
2. Room configured for a hearing, with a separate table for the ALJ, separate tables for each party, and a separate table for the witness;
3. Drinking water available in the hearing room;

4. Electric outlets near the ALJ's table;
5. Same hearing room available for at least each day in a given week that the hearing is scheduled;
6. Ability to lock the hearing room each night and assurance that the room is secure;
7. All restrooms, the parking facility, access to the hearing room, and the hearing room itself in compliance with the Americans with Disabilities Act.

Silicon Valley Flex's motion is therefore denied without prejudice to it re-submitting its motion, accompanied by an appropriate declaration addressing whether the hotel location it has proposed meets the above criteria. Silicon Valley Flex may also raise this request at the July 27, 2015 prehearing conference.

IT IS SO ORDERED.

DATE: July 22, 2015

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings