BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TEHACHAPI UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015120889 ORDER DENYING STUDENT'S REQUEST TO CHANGE HEARING LOCATION

On Thursday, May 5, 2016, Andrea Marcus, the attorney representing Student submitted a request to change the location for the due process hearing currently scheduled to begin May 16, 2016. Ms. Marcus predicated her request on her generalized concerns about attending the hearing in Tehachapi, and a recent threat she received by telephone.

On Friday, May 6, 2016, District responded to Ms. Marcus' request. District opposed the request based upon the lack of evidence provided by Ms. Marcus along with the burden on District that would be imposed by the requested location change. District proposed moving the hearing to the Kern County Superintendent's office as an alternative to the Tehachapi location.

On Friday, May 6, 2016, Ms. Marcus replied to District's opposition by providing some additional narrative information regarding her recent interaction with the Mojave police chief. She also expanded the area she would not attend a hearing to include all of Kern County.

APPLICABLE LAW AND DISCUSSION

Under the Individuals with Disabilities Act (IDEA) and state law, hearings must be conducted at a time and place that is reasonably convenient to the parents and child involved. (34 C.F.R. §300.515(d); Ed. Code, §56505(b).) Therefore, due process hearings are generally scheduled at the school district offices, the office of the Special Education Local Plan Area to which the District belongs, or the regional OAH office closest to the parents' residence.

In her request for change of location for the mediation and hearing, Ms. Marcus claims generalized safety concerns with Tehachapi, its surroundings, and Kern County, generally.

District opposes the request based on the inconvenience, cost and delay that would be occasioned by the change of location from Tehachapi to Van Nuys, as well as the lack of evidence of a credible threat to Ms. Marcus based upon her two letters to OAH.

Here, the narratives provided by Ms. Marcus are unsupported by declaration or affidavit and are thus insufficient evidence to establish a need to change the hearing location. In the absence of such evidence, there is no reasonable basis to move the hearing from the present location, and counsel's request to change the hearing location is denied without prejudice. Should counsel wish to resubmit the motion supported by declarations attesting to the facts underlying her concerns, it as well as any opposition will be considered in due course.

IT IS SO ORDERED.

DATE: May 10, 2016

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Ted Mann
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TED MANN
Administrative Law Judge
Office of Administrative Hearings