BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. FRESNO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013010033
FRESNO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2012120631 ORDER RE DISTRICT'S REQUEST FOR AN ADDITIONAL HEARING DATE, AND CONFIRMING VENUE.

On July 3, 2013, the District filed a document entitled "Notice of Change of Hearing Location." It also filed a request to schedule an additional day of hearing this matter. On July 8, 2013, Student filed a "Reply to District's Motions for Change of Venue and Additional Days."

Currently this case scheduled to be heard on July 9 through 11, and July 16 through 18, 2013, at 4120 North 1st Street, Fresno, California 93726. The location of the due process hearing was determined at a telephonic prehearing conference (PHC) conducted by OAH on May 13, 2013. The order following the PHC affirmed the hearing location that is stated above. The District cannot unilaterally change the location of the hearing two business days prior to the date the hearing is to commence, and cannot do so when Student has had subpoenas issued and served with the location of hearing reflected as that in the PHC order from May 2013. It is OAH that has jurisdiction to change venue, not the District. The hearing shall commence on July 9, 2013, at 9:30 a.m. at 4120 North 1st Street, Fresno, California 93726. The ALJ hearing the case will determine the location of the hearing needs to be changed.

The District has asked that an additional day of hearing, specifically July 22, 2013, be scheduled because one of its witnesses will be out of the country on a prepaid trip that was scheduled before the Office of Administrative Hearings (OAH) set this matter as it is currently scheduled. Student does not oppose the request to add July 22, 2013, as an additional day of hearing.

Dates for hearing are determined by the Administrative Law Judge (ALJ) presiding over the hearing. That ALJ will determine if additional days need to be scheduled in the course of the hearing, and those days will be added as necessary.

Finally, it is troubling that Student attached to his reply, correspondence and emails that appear to be settlement negotiations between the parties.[1] Settlement negotiations are confidential. Although the administrative proceedings conducted by OAH are not subject to the Evidence Code, OAH looks to the Evidence Code for guidance. Evidence Code section 1152 protects communications made in the course of settlement negotiations. The parties are advised that they shall not submit settlement negotiation documents to OAH in the future. The documents Student submitted to OAH with his reply will be sealed.

ORDERS

1. This matter will be heard as currently scheduled, at 4120 North 1st Street, Fresno, California 93726, unless otherwise ordered by the ALJ presiding over the hearing.

2. The ALJ presiding over the due process hearing shall order additional hearing dates, as necessary, during the course of the due process hearing.

3. The parties shall not submit documents to OAH that contain settlement discussions. Documents that contain these discussions that were previously submitted to OAH shall be sealed.

Dated: July 8, 2013

/s/
REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

[1] The parties are engaged in extensive litigation in Fresno County Superior Court involving matters that are related to this consolidated due process case.