

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BURLINGAME ELEMENTARY SCHOOL  
DISTRICT.

OAH CASE NO. 2012070884

ORDER CONTINUING PREHEARING  
CONFERENCE DATE AND DENYING  
REQUEST TO VACATE DUE  
PROCESS HEARING DATES

This matter is currently set for hearing on February 19, 2013. A telephonic prehearing conference (PHC) was scheduled before Administrative Law Judge (ALJ) Adeniyi A. Ayoade, Office of Administrative Hearings (OAH) on February 11, 2013.

On February 9, 2013, attorney for Student, Susan Foley, filed with OAH a “notice of settlement” in the matter. In the notice, Ms. Foley indicated that the parties have resolved all issues in the matter, but that the parties do not yet have a fully executed settlement agreement as the written settlement agreement document is currently being drafted. Nonetheless, Ms. Foley requested that all dates be vacated and that the case should be set for a Status Conference.

Generally, OAH would not vacate scheduled hearing dates until OAH receives proper notification that all issues in a pending matter are settled. Such notification can be in the form of a fully executed signature page(s) of a written settlement agreement, or a request to withdraw the complaint due to settlement. Based on the notification provided by Ms. Foley, the case is not settled, as the parties do not yet have a signed settlement agreement resolving all issues. Therefore, the due process hearing dates may not be vacated, and the matter shall remain on calendar as scheduled at this time.

However, based on the information provided by Ms. Foley, good cause is established for a short continuance of the PHC.<sup>1</sup> Therefore, the PHC is continued, and the PHC shall

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<sup>1</sup> A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) Good cause is established due to the pending settlement of all issues in this matter.

take place on Wednesday, February 13, 2013, at 1:30 p.m. The due process hearing dates shall remain as calendared.

If the parties intend that the due process hearing dates be vacated as initially requested by Student, the parties must provide to OAH proper notification of settlement of all issues in this matter as discussed above. Also, the parties may contact OAH before the date of the rescheduled PHC, if they request a modification of this order.

IT IS SO ORDERED.

Dated: February 12, 2013

/s/

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ADENIYI A. AYOADE  
Administrative Law Judge  
Office of Administrative Hearings