

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. 2012020968

ORDER CONTINUING MATTER AND  
SETTING PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING

On May 22, 2012, Student informed the Office of Administrative Hearings (OAH) that the parties had reached a settlement and required time to execute a written settlement agreement. Student requested OAH vacate dates and set a status conference. OAH vacated the first day of hearing, and continued the previously continued prehearing conference to that date. On May 25, 2012, Student filed a second notice of pending settlement and requested that OAH vacate the prehearing conference and hearing dates. Apparently, the settlement agreement is yet to be executed. OAH will only vacate dates and set a status conference if the parties have a signed settlement agreement, and submit a copy of the signature page. However, at times, notice of a pending settlement may be grounds for a short continuance.

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 for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

Granted. All dates are continued. **No further continuances without a substantial showing of good cause.** This matter will be set as follows:

Prehearing Conference: June 4, 2012, at 1:30 PM  
Due Process Hearing: June 6, 2012, at 9:30 AM, and day-to-day until completed

IT IS SO ORDERED.

Dated: May 25, 2012

/s/

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BOB N. VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings