

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 GRANTING CONTINUANCE
AND SETTING PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On May 22, 2012, Student filed a notice of settlement, and requested that a telephonic status conference be scheduled for the end of June 2012 based upon the fact that a written settlement agreement is being circulated. This agreement will require board approval. It appears from Student's request that the board next meets on June 12, 2012. The Office of Administrative Hearings (OAH) will not vacate dates for prehearing conferences and due process hearings unless the parties have a signed settlement agreement. However, Student's request can be grounds to request a continuance and is treated as such.

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. The current prehearing conference date of May 23, 2012, is vacated along with the first day of hearing, May 29, 2012. This matter will be set as follows:

Prehearing Conference: May 30, 2012 at 1:30 PM
Due Process Hearing: May 31, 2012 at 9:30 AM, and continue day-to-day thereafter, unless otherwise ordered.

IT IS SO ORDERED.

Dated: May 22, 2012

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings