

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

PLACENTIA-YORBA LINDA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011090432

ORDER DENYING WITHOUT
PREJUDICE JOINT REQUEST TO
VACATE HEARING DATES AND
SCHEDULE STATUS CONFERENCE

Student filed a request for a due process hearing (complaint) on September 13, 2011, naming the Placentia-Yorba Linda Unified School District (District) as respondent. The Office of Administrative Hearings (OAH) granted Student leave to amend the complaint on January 17, 2012. OAH has also granted the parties several continuances in this case.

On May 11, 2012, the parties filed a pleading entitled “Notice of Settlement and Joint Request to Vacate Hearing Dates.” The parties inform that they have reached a written settlement in the matter and are in the process of obtaining signatures for the written settlement agreement. The parties then jointly request that the due process hearing in this matter be withdrawn and that OAH schedule a status conference for June 21, 2012. The parties also state that they anticipated petitioner [Student] would be filing a dismissal with prejudice “early next week.” As of this date, Student has not filed the anticipated dismissal.

As experienced attorneys who regularly practice before OAH, counsel for both parties are aware that OAH will not vacate hearing dates absent proof that a settlement has been fully executed or absent a request for dismissal or withdrawal of the case by the petitioning party. As stated in the scheduling orders issued by OAH in each case, including the scheduling order issued in this case on September 14, 2011, “The matter shall remain on calendar and shall not be dismissed until OAH receives the proper notification.”

In the instant case, neither party has provided OAH with a copy of the signature page of a fully-executed settlement agreement. Nor has Student filed a notice of withdrawal or request for dismissal of the case. Further, it has been 10 days since the parties filed their Notice of Settlement, but they have yet to file proof of the executed settlement agreement.

For these reasons, the parties’ joint request to vacate hearing dates is denied without prejudice. The parties may renew their motion once the settlement agreement has been fully executed. The parties must provide a copy of the signature page from the settlement agreement along with any renewed request to vacate the hearing dates. If the settlement requires board approval, the parties must also submit the date of the board meeting at which

the settlement will be discussed. Alternatively, Student may file a notice of withdrawal or request for dismissal of the case.

ORDER

1. The parties' request to vacate the hearing and schedule a status conference is denied without prejudice.
2. All dates presently scheduled shall remain on calendar.

Dated: May 22, 2012

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings