

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012040848

ORDER AFFIRMING THAT  
STUDENT'S RESPONSE TO THE  
DISTRICT'S MOTION TO EXCLUDE  
EVIDENCE HAS BEEN SEALED

On August 22, 2012, the Oakland Unified School District (District) filed a motion with the Office of Administrative Hearings (OAH) entitled "Motion to Exclude Evidence not Submitted by Petitioner in Petitioner's Prehearing Conference Statement." On August 23, 2012, Student filed a 24 page response to this motion. Included in the response was a written settlement offer from the District to Student (via their respective attorneys), and a response from Student to that offer, as well as several emails between the attorneys concerning the settlement negotiations. On August 23, 2012, the District's attorney filed a motion asking that several pages of Student's response be stricken as it contained information about settlement negotiations.

Mediations and settlement negotiations are confidential proceedings. (Cal. Code Regs., tit. 5, § 3086, subd. (b).) On the morning of August 23, 2012, shortly before 10:00 a.m., the ALJ assigned to conduct the due process hearing in this matter, Theresa Ravandi, brought to the attention of the undersigned, who was Acting Presiding Judge covering the Sacramento Special Education Division that date, the fact that settlement related materials were included in Student's response. Based upon the bold-lettered caption on a facsimile page, ALJ Ravandi ascertained the documents may contain confidential settlement discussions. She did not read any of the documents and provided the undersigned with all 24 pages of the document. Shortly thereafter, the District filed its own opposition to Student's response and asked that pages 9-11 and 18-20 be redacted and destroyed.

Prior to reviewing the District's opposition, the undersigned had ascertained that all but the first eight pages of Student's response to the District's motion were related to settlement negotiations, with the exception of the last page which was a proof of service for the response.<sup>1</sup> The undersigned then took the necessary steps to have clerical staff separate

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<sup>1</sup> The undersigned was initially assigned to mediate this case, and in that capacity had a lengthy conversation with the attorney for the District on August 6, 2012. (The mediation scheduled for August 9, 2012, was subsequently canceled.) Because the undersigned was

out the pages pertaining to confidential settlement communications from the document and place them under seal. The pages that are not under seal are retained in the OAH case file. Because the document is the subject of motions and orders, it will not be destroyed, but maintained as a sealed document by OAH.

IT IS SO ORDERED.

Dated: August 27, 2012

/s/

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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings

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assigned as the mediator in this case, she can not be assigned to conduct a due process hearing in this matter, nor can she assist the ALJ conducting the hearing in any substantive matter. Additionally, the undersigned merely visually scanned the documents and did not read them for content or understanding.