

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BUENA PARK SCHOOL DISTRICT.

OAH Case No. 2014061157

ORDER VACATING STATUS
CONFERENCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On June 19, 2014, Student filed a request for due process hearing against the Buena Park School District (Buena Park). On July 24, 2014, the parties participated in mediation. The parties reached a final agreement contingent upon terms requiring approval by the school board of Buena Park. On July 25, 2014, the Office of Administrative Hearings vacated the prehearing conference (PHC) and hearing dates in this matter, and set the matter for a status conference on August 20, 2014. OAH improperly vacated the PHC and hearing date and, as discussed below, that order is vacated.

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.) When parties reach a final settlement agreement, but the agreement requires approval of the school district's board, OAH will vacate PHC and hearing dates, and set the matter for a status conference. This permits the parties sufficient time to obtain board approval and dismiss the matter, without incurring additional litigation expenses in preparing for hearing.

In this matter the parties reached a settlement at the mediation on July 25, 2014. OAH is informed that the settlement can only be enforceable if Buena Park's board approves the contract for one of the vendors anticipated to provide services through the agreement. The board is set to meet and consider the contract on August 11, 2014. This matter is different from others where it is the approval of the settlement agreement that is at issue, not a contingency that will give effect to the settlement agreement's execution. Accordingly, OAH should not have vacated PHC and hearing dates, and set this matter for a status conference. The status conference date of August 20, 2014, is vacated. This matter is set as follows:

Prehearing Conference: August 18, 2014, at 1:00 PM
Due Process Hearing: August 26, 2014, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: July 31, 2014

/s/

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