BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2019060339
v.	ORDER FOLLOWING EXPEDITED PREHEARING CONFERENCE, GRANTING MOTION TO UNEXPEDITE AND VACATED EXPEDITED HEARING DATES
LOS ANGELES UNIFIED SCHOOL DISTRICT.	

On June 24, 2019, Administrative Law Judge Adrienne L. Krikorian, Office of Administrative Hearings held a telephonic prehearing conference. Attorney Eric Esteban appeared on Student's behalf. Attorney Donald Erwin appeared on behalf of Los Angeles Unified. The PHC was recorded. Based upon discussion with the parties, the ALJ makes the following orders.

1. Motion to Unexpedite.

Student filed a motion to unexpedite this matter on June 21, 2019. Los Angeles Unified filed a non-opposition to the motion on June 21, 2019.

Issue Three of Student's complaint contends Los Angeles Unified failed to hold a manifestation determination review meeting before expelling Student from school for disciplinary reasons. That issue requires an expedited hearing under title 20 United States Code section 1415(k) unless Student withdraws the issue, or limits the claim to remedies available under title 20 United States Code section 1415(b)(6). Here, Student's proposed resolutions did not request any remedies arising out of an appeal of Issue Three, including seeking an order compelling Los Angeles Unified to hold a manifestation review meeting or immediately returning Student to his pre-expulsion placement. Instead, all of Student's remedies sought are compensatory remedies as a result of alleged claims that Los Angeles Unified denied Student of a free appropriate public education.

After discussion on the record, Student limited Issue Three to claims and remedies arising under title 20 United States Code section 1415(b)(6). Accordingly, the expedited hearing dates will be vacated.

The motion to unexpedite this matter is granted. Student may only present Issue Three and the facts pertaining to it as a denial of FAPE. Student shall not be permitted at the hearing on the unexpedited issues to appeal District's actions pursuant to section 1415(k)(3)(B). Student will be precluded from arguing any violations of the disciplinary

provisions of the law that Student would have in an order that requires District to hold a manifestation determination meeting including those contained in 20 U.S.C. section 1415(k)(3)(A); 34 C.F.R. section 300.532(a); and corresponding California law. This Order does not preclude Student from seeking relief associated with the facts giving rise to Issue Three based on claims those facts resulted in procedural or substantive violations of the IDEA resulting in a denial of FAPE.

The expedited hearing scheduled for July 2 and 3, 2019 is vacated.

2. Unexpedited Hearing Dates, Times, and Location. The hearing dates in the unexpedited matter as provided in the original scheduling order issued in this case are confirmed.

The unexpedited prehearing conference shall take place on July 19, 2019, at 10:00 a.m. The parties shall file prehearing conference statements reflecting the non-expedited issues three business days before the prehearing conference. Prehearing motions must be filed three business days before the prehearing conference, or must be accompanied by a declaration establishing good cause if filed late.

The due process hearing shall take place on July 30, 31 and August 1, 2019, and continuing day to day at the ALJ's discretion, unless otherwise ordered, at OAH's Van Nuys office located at 15350 Sherman Way, Suite 300, Van Nuys, California 91406. The hearing shall begin at 9:30 a.m. on the first hearing day, and at 9:00 a.m. on all other hearing days unless otherwise ordered.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

3. Los Angeles Unified's Response to Complaint. State and federal law require a local education agency to respond to a due process complaint. (Ed. Code, §56502, subd. (d)(2)(A); 20 USC § 1415(c)(2)(B)(i)(I); 34 C.F.R. § 300.508.); *M.C. by and through his guardian ad litem M.N. v. Antelope Valley Union High School District* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.) Los Angeles Unified did not file a response to Student's due process complaint with OAH. Accordingly, Los Angeles Unified shall file with OAH its response to Student's due process hearing request no later than 4:00 p.m. on **June 26, 2019.**

4. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY PRIOR TO HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY **EMAIL THE SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING THE CASE TO THE OAH AT** https://www.applications.dgsapps.dgs.ca.gov/oah/oahsftweb **.**

If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages the evening prior to the hearing or the morning of the hearing.

5. Failure to comply. Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.

DATE: June 24, 2019

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Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings