BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN MATEO UNION HIGH SCHOOL DISTRICT.	OAH CASE NO. 2013090575 ORDER GRANTING MOTION TO UNEXPEDITE HEARING

On September 11, 2013, Student filed a Due Process Hearing Request (complaint) against San Mateo Union High School District (District) and a non-public agency, Achieve Kids (the NPA). On September 19, 2013, the Office of Administrative Hearings (OAH) issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearings and Mediations (Scheduling Order). The Scheduling Order set this matter for an expedited mediation on September 25, 2013, and a non-expedited mediation on October 16, 2013. The expedited prehearing conference (PHC) was set for September 30, 2013, and the non-expedited PHC was set for October 25, 2013. The expedited due process hearing was set for October 9, 2013, and the non-expedited due process hearing was set for November 5, 2013.

On September 26, 2013, Student filed a request to unexpedite this matter and vacate the expedited dates.[1] The parties had reached a settlement of the unexpedited issue, and a copy of the last pages of the settlement agreement signed by the parties was attached.

APPLICABLE LAW

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination made by the district, may request and is entitled to receive an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).) An expedited due process hearing before OAH must occur within 20 school days of the date the complaint requesting the hearing is filed. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2) (2006).) The procedural right to an expedited due process hearing is mandatory and does not authorize OAH to make

[1] Student also has asked that the NPA be dismissed in this case, but OAH previously issued a notice stating that the NPA could not be named as a party.

exceptions or grant continuances of expedited matters. (*Ibid.*) In sum, a matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, or if the student withdraws the issues in the complaint that triggered the expedited hearing.

DISCUSSION

The first issue in Student's complaint is a request that OAH find that the determination of a manifestation IEP team that the event that caused Student to be subject to expulsion was not manifestation of his disabilities was incorrect. However, Student and the District have now settled this issue, and Student provided a copy of the executed pages of the settlement agreement to confirm this. Since Student has withdrawn the issue from the complaint that is subject to an expedited due process hearing, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted.

2. The following expedited dates are vacated: PHC on September 30, 2013, and due process hearing on October 9, 2013.

3. This matter shall proceed on the following dates: Mediation on October 16, 2013, PHC on October 25, 2013, and hearing on November 5, 2013.

4. Student's Issue 1 is dismissed.

Dated: September 27, 2013

/s/
REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings