BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CHINO VALLEY UNIFIED SCHOOL DISTRICT AND EL RANCHO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018020074 ORDER GRANTING MOTION TO UNEXPEDITE HEARING

On February 1, 2018, Student filed a Due Process Hearing Request (complaint) against Chino Valley Unified School District and El Rancho Unified School District. On February 2, 2018, based on issues asserted in the complaint, the Office of Administrative Hearings issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation (Scheduling Order).

On February 8, 2018, Student filed a motion to unexpedite this matter and vacate the expedited dates based on Student withdrawing Issue 15, the expedited issue for hearing. OAH did not receive a response from Districts.

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).[1]) 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) .) The procedural right to an expedited due process hearing is mandatory and does not authorize OAH to make exceptions or grant continuances of expedited matters. (*Ibid.*) A matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, if the student withdraws the issues in the complaint that triggered the expedited hearing, or if the student elects to challenge the change of placement under title 20, section 1415, subdivision

[1] All subsequent references to the Code of Federal Regulations are to the 2006 version.

(b)(6)(A) and not subdivision (k). (*Molina v. Bd. Of Educ. Of Los Lunas Schools* (D.N.M. 2016) 157 F.Supp.3d 1064, 1068-1071.)

DISCUSSION

Student's complaint contains 15 issues for hearing, with Issue 15 alleging that Chino Valley failed to convene a timely manifestation determination meeting after a disciplinary incident. Student demonstrated that no expedited issues remain with the withdrawal without prejudice of Issue 15. Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted. Issue 15 is dismissed without prejudice.

2. The expedited mediation, prehearing conference and hearing dates are vacated.

3. The unexpedited matter shall proceed on the unexpedited prehearing conference and hearing dates in February 2, 2018 scheduling order.

DATE: February 08, 2018

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings