BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013040174
v.	ORDER GRANTING REQUEST TO UNEXPEDITE MATTER AND CONFIRMING CONTINUED DATES FOR NON-EXPEDITED MATTER
KIT CARSON UNION SCHOOL DISTRICT.	

On April 2, 2013, Student filed a Due Process Hearing Request (complaint) against Kit Carson Union School District (District). On April 4, 2013, the Office of Administrative Hearings (OAH) issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation (Scheduling Order). The Scheduling Order set this matter for Expedited Mediation on April 16, 2013, Non-Expedited Mediation on May 9, 2013, Expedited Prehearing Conference (PHC) on April 22, 2013, and Non-Expedited PHC on May 20, 2013, Expedited Due Process Hearing on May 2, 6, and 7, 2013, and Non-Expedited Due Process Hearing on May 28, 2013, continuing day to day, Monday through Thursday thereafter if necessary and at the discretion of the Administrative Law Judge (ALJ) hearing the case.

On April 16, 2013, prior to the Expedited Mediation, the parties filed a joint request to unexpedite this matter and to vacate the expedited dates. At the Expedited mediation the parties were granted a continuance of the Non-Expedited proceedings and agreed to new dates for the Non-Expedited proceedings, vacating the dates previously set for the Non-Expedited proceedings. These new dates are reflected in the order below.

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 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

In his complaint, Student made reference the to fact that he had been expelled from the District following two disciplinary events in May 2012, and requested that he be assessed for special education and be reinstated as a Student in the District. Accordingly, OAH scheduled the case as an expedited matter, as well as a non-expedited matter since other issues were raised in the complaint that were not related to disciplinary actions by the District.

The parties, by way of their stipulated request to non-expedite this matter, have demonstrated that an expedited hearing is no longer required since Student is currently attending school in the District, and the only issue related to the expulsion is whether he was denied a free appropriate public education during the time he was expelled. Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted. The following expedited dates are vacated: Expedited Prehearing Conference (PHC) on April 22, 2013, and Expedited Due Process Hearing on May 2, 6, and 7, 2013.

2. This matter shall proceed on the following dates: Non-Expedited Mediation on May 16, 2013, at 9:30 a.m., Non-Expedited PHC on August 7, 2013, at 10:00 a.m., and Non-Expedited Due Process Hearing on August 20-22, 2013, at 9:30 a.m., and September 3, at 1:30 p.m., continuing September 4-5, 2013, at 9:30 a.m. In light of the lengthy continuance being granted, any further continuance request shall require a showing of substantial good cause.

Dated: April 17, 2013

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