BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021010583

ORDER GRANTING MOTION TO UNEXPEDITE HEARING

FEBRUARY 03, 2021

On January 21, 2021, Parent, on behalf of Student, filed a Due Process Hearing Request, known as a complaint, against Los Angeles Unified School District. On January 22, 2021, based on issues asserted in the complaint, the Office of Administrative Hearings, referred to as OAH, issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation. The Scheduling Order set this matter for expedited mediation on February 4, 2021, expedited prehearing conference on February 8, 2021, and expedited hearing for February 17, 2021 through February 18, 2021.

On February 3, 2021, Los Angeles filed a motion to unexpedite this matter. On February 3, 2021, Student filed a Notice of Dismissal Without Prejudice of Expedited Section of Due Process Only.

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), All subsequent references to the Code of Federal Regulations are to the 2006 version.) 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 (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 raised 10 issues in his January 21, 2021 complaint, including an allegation that Los Angeles failed to conduct a manifestation determination prior to terminating Student's placement at Summit View West, a non-public school. As such, OAH found that an expedited hearing was required. However, on February 3, 2021, Student withdrew his issue relating to the manifestation determination when he requested that OAH dismiss the expedited section of his complaint without prejudice. Thus, Student does not seek any expedited remedies for Los Angeles's alleged violation under title

20, section 1415, subdivision (k), so that an expedited hearing is no longer required. Specifically, Student only seeks remedies for a denial of FAPE under title 20, section 1415, subdivision (b)(6)(A).

Therefore, an expedited hearing is no longer required, and the expedited hearing dates will be vacated. The expedited mediation date of February 4, 2021 will remain on calendar unless the parties notify OAH that they no longer intend to mediate the matter or are requesting a different mediation date.

ORDER

1. The motion to unexpedite this matter is granted. The expedited portions of Issue One are dismissed without prejudice.
2. The following expedited dates are vacated: expedited prehearing conference on February 8, 2021, and expedited due process hearing on February 17, 2021, through February 18, 2021.
3. The expedited mediation scheduled for February 4, 2021, shall proceed as calendared unless cancelled by the parties.
4. The unexpedited matter shall proceed on the following dates: prehearing conference on March 8, 2021, and due process hearing on March 16, 2021, through March 18, 2021.

IT IS SO ORDERED.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings