BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

GRAVENSTEIN UNION SCHOOL DISTRICT AND SHORELINE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023100181

ORDER FOLLOWING EXPEDITED PREHEARING CONFERENCE GRANTING JOINT MOTION TO UNEXPEDITE AND VACATING EXPEDITED DATES

OCTOBER 24, 2023

On October 23, 2023, Administrative Law Judge Rommel P. Cruz, Office of Administrative Hearings, held an expedited prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Gail Hodes appeared on behalf of Student. Attorney Laura O'Neill specially appeared on behalf of Attorney Kaitlyn Schwendenman for Gravenstein Union

School District and Shoreline Unified School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

MOTION TO UNEXPEDITE

Student's due process hearing request discusses a February 16, 2023 manifestation determination review, and asserts that the individualized education program team determined Student's conduct was caused by or had a substantial relationship to his disability. Following the manifestation determination review, Student claims Gravenstein Union inappropriately restricted Student's access to peers after he returned from suspension.

At the expedited PHC, Student represented that he did not raise any claims in his due process hearing request regarding a change in placement as an appeal under title 20 United States Code section 1415(k). Instead, Student clarified his claims involving placement is based on title 20 United States Code section 1415(b)(6)(A), and he is not seeking an expedited hearing. Therefore, the parties jointly moved to unexpedite this matter.

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).) 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 be unexpedited or continued if no issue is alleged that is subject to an expedited hearing or if the student elects to challenge the change of placement under title 20 United States Code 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.)

The joint motion to unexpedite this matter is granted based on Student's representation that he is not challenging a change in placement under section 1415(k), but instead, is challenging placement under section 1415(b)(6)(A). Accordingly, the expedited dates are vacated. This matter will proceed on the unexpedited dates as scheduled.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the expedited prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings