BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. UPLAND UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018070246 ORDER GRANTING MOTION TO UNEXPEDITE HEARING

On July 6, 2018, Student filed a Due Process Hearing Request (complaint) against Upland Unified School District. On July 6, 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). The Scheduling Order set this matter for an expedited pre-hearing conference on July 27, 2018 and for an expedited hearing dates on August 2, 7, and 8, 2018 .

On July 16, 2018, the parties jointly filed a stipulation to un-expedite this matter and vacate the expedited dates, which OAH shall treat as a motion to un-expedite this matter.

The parties represented that this matter was based on free appropriate public education denials, and OAH designated it as an expedited matter because the complaint alleged a July 2018 expulsion hearing. The parties also represented that the expulsion hearing was held; Student was not expelled; and the only issues remaining in this matter were FAPE denial claims. Therefore, OAH should un-expedite this matter.

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

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

or grant continuances of expedited matters. (*Ibid.*) A matter can only be un-expedited 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

The parties demonstrated that no expedited issues were alleged in the complaint and that circumstances giving rise to what would have been an expedited hearing changed, so that an expedited hearing is no longer required, and the only relief Student seeks relate to a denial of a FAPE. Specifically, although complaint includes facts about an expulsion hearing, the expulsion hearing resulted in Student's favor, and no expedited issue remains. Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to un-expedite this matter is granted.

2. The following expedited dates are vacated: PHC on July 27, 2018 and hearing dates on August 2, 6, and 7, 2018.

3. The un-expedited matter shall proceed on dates remaining on calendar, specifically: PHC on August 24, 2018 at 3:00 p.m., and hearing on August 30, 2018 at 9:30 a.m..

IT IS SO ORDERED.

DATE: July 17, 2018

DocuSigned by:
Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings