BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017120638
v.	ORDER GRANTING MOTION TO UNEXPEDITE HEARING AND VACATE EXPEDITED HEARING DATES
HAYWARD UNIFIED SCHOOL DISTRICT.	

On December 14, 2017, Student filed a Due Process Hearing Request against Hayward Unified School District, alleging both expedited and non-expedited issues. The matter on the expedited claims proceeded to hearing and a decision was issued on February 7, 2018. On March 13, 2018, Student's second amended complaint was deemed filed. The second amended complaint contained new expedited claims not raised in the initial complaint as well as non-expedited claims. The matter was designated as a dual case and scheduled for both an expedited and non-expedited due process hearing. On April 9, 2018, a prehearing conference was held and the sole expedited issue to be adjudicated was, "[a]t the February 15, 2018 manifestation determination review, did District improperly conclude that Student's behavior on November 8, 2017 was not a manifestation of her disability."

On April 13, 2018, Student filed a notice dismissing the expedited issue without prejudice and requested the expedited hearing dates be vacated.

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

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

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 has withdrawn the issues from the complaint subject to an expedited due process hearing. Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted. The expedited issue is vacated.

2. The following expedited dates are vacated: April 17-19, 2018

3. The unexpedited matter shall proceed as scheduled.

IT IS SO ORDERED.

DATE: April 13, 2018

DocuSigned by:
Joy Redmon
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JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings