BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LUCIA MAR UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017091082 ORDER DENYING MOTION TO UNEXPEDITE HEARING

On September 27, 2017, Student filed a due process hearing request (complaint) naming Lucia Mar Unified School District. On September 28, 2017, based on issues asserted in the complaint, the Office of Administrative Hearings issued a scheduling order and notice of dates for both expedited and unexpedited due process hearing, prehearing conference, and mediation dates (scheduling order). The scheduling order set this matter for an expedited mediation date of October 12, 2017, an expedited prehearing conference date of October 20, 2017, and an expedited hearing date of October 24, 2017. Later dates for mediation, a PHC and a due process hearing were also set for the unexpedited issues.

On October 13, 2017, Student filed a motion to unexpedite this matter and vacate the expedited dates. OAH did not receive a response from Lucia Mar.

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) .) 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 specifically requested an expedited hearing in his complaint. Seven issues, some including subissues, were alleged in the complaint; some were clearly expedited issues, and others were not. Therefore OAH set the matter for expedited mediation, PHC and hearing dates, as well as unexpedited dates. The complaint was primarily focused on disciplinary action taken by Lucia Mar on August 31, 2017, when Student was suspended and accused of making threats to burn down his school. A manifestation individualized education program team meeting was convened on September 5, 2017, at which time it was found that Student's alleged actions were not a manifestation of his disabilities.

Student's request to unexpedite this matter is simply a letter containing one sentence that states, "The purpose of this letter is to inform the Office of Administrative Hearings that Student is withdrawing the expedited issues raised in his due process complaint without prejudice." Student does not state which specific issues he believes to be expedited that he is now withdrawing. Therefore, OAH cannot determine which issues Student is withdrawing, and whether or not they are, in fact, expedited or unexpedited. Accordingly, Student's request to unexpedite this matter is denied.

ORDER

1. The request to unexpedite the hearing dates is denied.

2. This matter shall proceed with an expedited PHC on October 20, 2017, and expedited hearing beginning October 24, 2017.

IT IS SO ORDERED.

DATE: October 13, 2017

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings