JanBEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2014020024
v.	ORDER GRANTING STUDENT'S MOTION TO UNEXPEDITE HEARING, VACATING EXPEDITED DATES
ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT.	

On January 29, 2014, Student filed a Due Process Hearing Request (complaint) against Antelope Valley Union High School District. The complaint's Issues 7 through 10 required expedited hearing. On February 3, 2014, the Office of Administrative Hearings (OAH) issued a Scheduling Order and Notice of Expedited and Non-Expedited Process Hearings and Mediations (Scheduling Order). The Scheduling Order set the expedited portion of this matter for: Mediation on February 12, 2014; prehearing conference on February 21, 2014; and due process hearing on February 25, 26 and 27, 2014. The complaint's non-expedited portion are scheduled for: Mediation on March 5, 2014; prehearing conference for 3:00 p.m., March 21, 2014; and due process hearing on March 25, 2014, to continue, day to day, Monday through Thursday, unless otherwise ordered.

On February 11, 2014, Student filed a motion to unexpedite this matter and vacate the expedited dates. On February 13, 2014, Student filed an amendment to the motion, which specifically withdraws issues seven through 10 of the complaint. The District has not filed opposition to the Student's motion.

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) (2006).) 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.*) In sum, a matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, or if the student withdraws the issues in the complaint that triggered the expedited hearing.

DISCUSSION

Student has withdrawn issues seven through 10, which are subject to an expedited due process hearing. Student states that there are no current disciplinary procedures at issue and that there is no current attempt to change Student's placement due to a violation of any code of student conduct. Accordingly, now that Student has withdrawn the expedited issues, the expedited hearing dates can be vacated.

ORDER

1. The motion to unexpedite hearing and vacate expedited dates is granted. Issues 7 through 10 are stricken from the complaint, without prejudice to being re-alleged at a later date.

2. The following expedited dates are vacated: prehearing conference on February 21, 2014; and due process hearing on February 25, 26 and 27, 2014.

3. The remaining non-expedited matter shall proceed on the following presently scheduled dates: Mediation at 9:30 a.m., March 5, 2014; prehearing conference for 3:00 p.m., March 21, 2014; and due process hearing at 9:30 a.m., March 25, 2014, to continue, day to day, Monday through Thursday, unless otherwise ordered.

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DATE: February 18, 2014

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings