BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MOUNT SHASTA UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2024120488

ORDER DENYING MOTION TO UNEXPEDITE HEARING

JANUARY 10, 2025

On December 12, 2024, Student filed a Due Process Hearing Request, known as a complaint, against Mount Shasta Union School District, called Mount Shasta, with the Office of Administrative Hearings, called OAH. On December 16, 2024, based on issues asserted in the complaint, OAH issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation, called Scheduling Order. The Scheduling Order set this matter for expedited mediation on January 9, 2025, expedited prehearing conference on January 13, 2025, and expedited hearing for January 22 and 23, 2025.

On December 23, 2024, Mount Shasta filed a motion to unexpedite this matter and vacate the expedited dates. Mount Shasta argues the matter should not be expedited because Student's complaint does not make any claims that Student is

currently removed from his educational placement due to code of student conduct violations, pending disciplinary proceedings, or that Parents challenge the results of a manifestation determination meeting. OAH did not receive a response from Student to the motion to unexpedite.

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), All subsequent references to the Code of Federal Regulations are to the 2006 version.) 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.)

Student alleged in Issue 9 of the complaint that Mount Shasta had procedurally violated Student's educational rights by not holding a manifestation determination team meeting during the 2023-2024 school year. Student supported the claim by alleging a manifestation determination team meeting was required prior to the offer of placement in the January 22, and March 1, 2024 individualized education program, called IEP, team

meetings, and prior to Student's removal or suspension from the general education curriculum for disciplinary reasons. Additionally, Student alleged that his behavioral violations were a manifestation of a disability and Mount Shasta should have conducted a functional behavior assessment, and failed to do so. These issues are subject to the expedited hearing time frame, unless Student withdraws the issue or informs OAH its allegations are raised under title 20 section 1415(b) and not section 1415(k). The issues can be further clarified at the January 13, 2025 expedited prehearing conference. Accordingly, the motion to unexpedite the hearing dates is denied.

ORDER

1. District's motion to unexpedite the hearing dates is denied.
2. The expedited hearing shall proceed as scheduled.

Thanayi Lindsey
Thanayi Lindsey (Jan 10, 2025 11:26 PST)

Thanayi Lindsey
Administrative Law Judge
Office of Administrative Hearings