BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. REDLANDS UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018090816 ORDER GRANTING MOTION TO UNEXPEDITE HEARING AND VACATING EXPEDITED MEDIATION AND EXPEDITED HEARING

On September 21, 2018, Student filed a Due Process Hearing Request (complaint) against Redlands Unified School District. On September 25, 2019, 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 Hearings and Expedited Mediation (Scheduling Order). The Scheduling Order set this matter for an expedited mediation of October 4, 2018, an expedited hearing of October 16, 2018, and a non-expedited hearing of November 15, 2018.

On September 27, 2018, Student filed a motion to unexpedite this matter and vacate the expedited dates. OAH did not received a response from District.

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 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.)

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

DISCUSSION

Student's complaint asserts six issues, one of which refers to Student having been suspended more than 10 days during the 2016-2017 school year. However, Student has demonstrated that no expedited issues were alleged in the complaint, so that an expedited hearing is no longer required. Specifically, Student does not appeal from a manifestation determination or improper change of placement under Section 1415(k)(3) nor allege an unilateral placement contrary to Section 1415(k). Instead, Student asserts that a failure to conduct a manifestation determination denied Student a free appropriate public education because District allegedly failed to consider appropriate changes to Student's related services and special education program. Student did not intend to assert an issue requiring an expedited hearing and does not allege facts that constitute an appeal pursuant to Section 1415(k)(3). Thus the mandatory provisions of Section 1415(k)(4)(B) for an expedited hearing do not apply. Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted.

2. The expedited mediation of October 4, 2018, and expedited hearing of October 16, 2018, are hereby vacated.

3. The unexpedited matter shall proceed to a prehearing conference at 3:00 p.m., November 9, 2018, and hearing on November 15, 2018.

IT IS SO ORDERED.

DATE: September 28, 2018

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CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings