BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SOUTH BAY UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2025030642

ORDER GRANTING MOTION TO UNEXPEDITE HEARING

MARCH 25, 2025

On March 13, 2025, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, against South Bay Union School District. On March 18, 2025, based on issues asserted in the complaint, the Office of Administrative Hearings, referred to as OAH, issued a Scheduling Order Setting Dual Hearing Dates, Prehearing Conference and Mediation. The Scheduling Order set this matter for expedited mediation on April 11, 2025, expedited prehearing conference on April 14, 2025, and expedited hearing for April 22, 23, and 24, 2025.

On March 18, 2025, Student filed a motion to unexpedite this matter and vacate the expedited dates. Although Student alleged a violation that occurred during a manifestation meeting, Student explained in his motion that Student has returned to his original placement. Student contends there are no pending placement issues, nor is

Student being considered for expulsion. OAH did not receive a response from South Bay.

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 alleges in the complaint as Issue 2(b), that South Bay failed to provide comprehensive information to Parent regarding a manifestation determination review, thus resulting in a parental participation violation. Student contends this meeting occurred in February 2025 and Student has since returned to his original placement. Student contends there currently are no expulsion issues. Student's proposed resolution does not seek to set aside the expulsion. Student contends the complaint's Issue 2(b) intended to allege a denial of a free appropriate public education by failing to

provide comprehensive information to Parent regarding a manifestation determination review, resulting in a procedural violation that impeded parental participation. Student does not allege facts that constitute an appeal pursuant to Section 1415(k)(3), and thus that the mandatory provisions of Section 1415(k)(4)(B) for an expedited hearing do not apply. (*Molina, supra,* 157 F.Supp.3d 1064, 1068-1071.) Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted.
2. The following expedited dates are vacated: Mediation on April 11, 2025; Prehearing Conference on April 14, 2025; and Expedited Due Process Hearing on April 22, 23, and 24, 2025.
3. The matter shall proceed on the unexpedited dates for prehearing conference and hearing, as set forth in the March 18, 2025, scheduling order, as follows: Prehearing Conference on April 21, 2025, at 10:00 AM; and Due Process Hearing on April 29, 30, and May 1, 2025.

Jeanie Min

Jeanie Min
Administrative Law Judge
Office of Administrative Hearings