BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TAMALPAIS UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2015120898 ORDER GRANTING MOTION TO UNEXPEDITE HEARING

On December 17, 2015, Student filed a Due Process Hearing Request (complaint) against Tamalpais Union High School District. On December 19, 2015, the Office of Administrative Hearings issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation (Scheduling Order). The Scheduling Order set the expedited prehearing conference at 10:00 a.m., on January 22, 2015, and expedited hearing for January 26 – 28, 2016. The non-expedited prehearing conference is scheduled at 10:00 a.m., on February 5, 2015, and non-expedited hearing for February 10, 2016

On January 6, 2016, the parties filed a joint motion to unexpedite this matter and vacate the expedited dates.

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.*) 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.

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

DISCUSSION

In this matter, Student challenges, among other things, the placement District offered him, along with the level of related services and instructional setting. Student does allege that Journey High School, which is a certified non-public school, 'expelled' him, which might give rise to an expedited hearing. Reviewing the parties' joint motion in relation to the complaint, Student is in fact is not challenging Journey's removal of Student, but rather District's failure to offer an appropriate subsequent placement after he left Journey, and its failure to timely convene an individualized educational program team meeting to discuss a new placement. Accordingly, Student does not allege any expedited matters for hearing.

ORDER

1. The parties' joint motion to unexpedite this matter is granted.

2. This matter shall proceed on the unexpedited dates set forth in the December 19, 2015 scheduling order.

DATE: January 8, 2016

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings