BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

BREA OLINDA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023050763

ORDER FOLLOWING EXPEDITED PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE DISMISSING EXPEDITED ISSUES AND ADDRESSING MOTION TO UNEXPEDITE

JUNE 5, 2023

On June 5, 2023, Administrative Law Judge Marlo Nisperos, Office of Administrative Hearings, held an expedited prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Hamlet Yarijanian, counsel of record, failed to appear on behalf of Student. Darin Barber, Attorney at Law, appeared on behalf of Brea Olinda Unified School District. The PHC was recorded. The ALJ issues the following order:

DISMISSAL OF STUDENT'S EXPEDITED ISSUES

On May 18, 2023, Student filed a complaint with OAH alleging five issues. OAH determined the complaint raised expedited and non-expedited claims. OAH scheduled the matter for both expedited and non-expedited hearings. The expedited PHC was scheduled for June 5, 2023, at 3:00 p.m. and expedited due process hearing June 13, 14, and 15, 2023. On June 1, 2023, Brea Olinda filed a PHC statement. OAH did not receive a PHC statement from Student. Student's complaint alleged two expedited claims pursuant to 20 U.S.C. 1415(k). Based on Student's counsel's failure to appear at the expedited PHC on June 5, 2023, Student's expedited claims, alleged in issues one and three of Student's complaint, are dismissed. The expedited due process hearing dates are vacated.

ADDRESSING STUDENT'S MOTION TO UNEXPEDITE

On June 2, 2023, Student filed a Notice Requesting to Unexpedite the Expedited Due Process Hearing. Student requested for his expedited due process to be dismissed without prejudice. Student asserted that he did not request expedited dates and requested that the expedited issues remain as part of the complaint. At the PHC, Brea Olinda did not respond to Student's request. Because Student's expedited hearing was vacated, as described above, Student's request to vacate the expedited hearing dates is moot. Student's request for the expedited issues to remain part of the complaint as part of the non-expedited hearing is denied. Student is precluded from asserting any violations of 20 U.S.C. section 1415(k) or 34 C.F.R. section 300.532 that had not previously

been litigated in an expedited hearing, as a basis for a denial of FAPE in a non-expedited hearing.

ORDER

1. Issues one and three of Student's complaint are dismissed.
2. The expedited due process hearing is vacated.
3. Student's request to for the expedited issues to remain part of the non-expediated hearing is denied.
4. The non-expedited PHC and non-expedited due process hearing shall proceed as scheduled.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings