BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN RAFAEL CITY SCHOOLS.	OAH Case No. 2014070778 ORDER CONCERNING SCOPE OF ISSUES RAISED IN COMPLAINT

On July 14, 2014, Student filed a request for due process hearing naming San Rafael City Schools. Student did not request an expedited hearing in the complaint, but Issue 2, paragraph H included allegations regarding a manifestation determination review meeting that took place in April 2013.

The parent of a student with a disability, who disagrees with either a district's decision to change the student's educational placement as a disciplinary measure or the manifestation determination, may appeal by requesting a due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532 (a) & (c).)[1] An expedited hearing shall be held within 20 school days of the date the hearing is requested and a decision or "determination" shall be made by the hearing officer within 10 school days after the hearing. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532 (c)(2).) In appropriate circumstances, the ALJ hearing the dispute may order a change in placement of the student, and may return the student to the placement from which he was removed. (20 U.S.C. §1415(k)(3)(B)(ii); 34 C.F.R. § 300.532(b)(2)(i).)

The parent or guardian of a student or the public education agency involved may also initiate a due process hearing if there is a proposal or refusal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free appropriate public education, the parent or guardian refuses to consent to an assessment, or there is a disagreement regarding the availability of an appropriate program for the child. (Ed. Code, § 56501, subd. (a)(1)-(4).)

Student's complaint neither identified any issue as giving rise to an expedited hearing, nor requested an expedited hearing under title 20 United States Code section 1415(k)(4)(B). In addition, Student had several opportunities to request expedited hearing dates and did not do so. Student received the July 17, 2014, scheduling order from the Office of

[1] The district may also request a hearing in specified circumstances.

Administrative Hearings setting this matter for a due process hearing that did not include an expedited hearing schedule. After receiving this scheduling order, Student did not request dates for an expedited hearing. Thereafter, Student participated in mediation in September 2014 and did not request an expedited hearing. On October 21, 2014, Student submitted a prehearing conference statement that again included an allegation regarding an April 2013 manifestation review meeting but did not request an expedited hearing, nor cite the law governing expedited hearings.

Student did not identify any of the issues in the complaint as issues for an expedited hearing and did not request expedited dates at any time. It is determined that Issue 2, subparagraph H alleges facts concerning the manifestation review meeting as a denial of a free and appropriate education under Education Code section 56501 and not a challenge to the manifestation determination under title 20 United States Code section 1415(k)(3)(B)(ii).

IT IS SO ORDERED.

DATE: October 22, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings