BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PANAMA-BUENA VISTA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024030698

ORDER DENYING MOTION TO DISMISS EXPEDITED ISSUES

APRIL 22, 2024

On March 19, 2024, Parents on behalf of Student filed a request for due process hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Panama-Buena Vista Unified School District, called Panama-Buena Vista. The Office of Administrative Hearings is referred to as OAH.

On March 21, 2024, OAH designated this case as a dual matter with expedited and non-expedited issues, and issued an Order scheduling the expedited prehearing conference, called a PHC, for April 15, 2024, with the expedited hearing to begin on April 24, 2024. The March 21, 2024 scheduling Order expressly stated:

> EXPEDITED PREHEARING CONFERENCE MOTIONS AND EXPEDITED PREHEARING CONFERENCE STATEMENTS

> LAST DAY TO FILE: 04/10/2024
>
> This deadline does not include motions with specific statutory timelines. Any motions filed after this due date must show good cause as to why it was not filed timely.

The expedited PHC was held on April 15, 2024. On April 16, 2024, an Order following the PHC was issued and served on the parties, stating in part:

> Any motion that was not filed three business days before the PHC, shall be supported by a declaration under penalty of perjury establishing good cause why the motion was not timely filed.

On April 16, 2024, after the Order following the PHC was issued and served on the parties, Panama-Buena Vista filed a motion to dismiss Student's expedited issues as moot. On April 19, 2024, Student filed an opposition.

Panama-Buena Vista's motion to dismiss expedited issues was not accompanied by a sworn declaration explaining why the motion was not filed by April 10, 2024, at least three business days prior to the expedited PHC on April 15, 2024. In particular, Panama-Buena Vista failed to explain why it took the action it contends moots Student's expedited issues less than three business days prior to the expedited PHC. Panama-Buena Vista's motion to dismiss expedited issues was untimely under, and failed to comply with, both the March 21, 2024 scheduling Order and the April 15, 2024 Order following the PHC.

ORDER

1. Panama-Buena Vista's motion to dismiss expedited issues is denied.
2. The expedited hearing on expedited issues will proceed as scheduled.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings