BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

COMMUNITY ROOTS ACADEMY.

OAH CASE NUMBER 2026061189

ORDER DENYING MOTION TO UNEXPEDITE DUE PROCESS HEARING

JULY 8, 2026

On June 24, 2026, Student filed a due process hearing request, known as a complaint, against Community Roots Academy. On June 25, 2026, 2025, based on issues asserted in the complaint, the Office of Administrative Hearings, called OAH, issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation, Scheduling Order. The Scheduling Order set this matter for expedited prehearing conference on July 13, 2026, and expedited due process hearing to begin on July 21, 2026. On June 8, 2026, Student filed a motion to unexpedite this matter and vacate the expedited dates. Community Roots Academy does not oppose the motion.

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). For a student who has not yet been determined eligible for special education, the right to a manifestation determination applies only if the student engaged in behavior that violated code of student conduct and the local educational agency had knowledge that the student had a disability before the behavior prompting the disciplinary action occurred. (20 U.S.C. § 1415(k)(5)(A); 34 C.F.R. § 300.534(a)(2006).) This is referred to as a "basis of knowledge"

When a special education student who has violated a code of student conduct has been suspended for more than 10 consecutive school days (or for more than 10 non-consecutive school days if the series of removals constitutes a pattern) the school district must hold a manifestation determination meeting. (20 U.S.C. § 1415(k)(1)(B), (C), (E); 34 C.F.R. § 300.536 (2006).) If the team determines that the Student's conduct was a manifestation of his disability, then the team must conduct a functional behavior assessment. (20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.530(f) (2006).)

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).(2006).) 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 only if:

> Student withdraws the expedited issues in the complaint so that no issue is alleged that is subject to an expedited hearing, and agrees all issues are only subject to a non-expedited analysis under the Individuals with Disabilities Act,

called IDEA, and California law. (*Molina v. Bd. of Educ. of Los Lunas Schools* (D.N.M. 2016) 157 F.Supp.3d 1064, 1068-1071.)

Student alleged four issues in the complaint. Student's issue number one alleges Student is entitled to IDEA disciplinary protections under 20 U.S.C. section 1415 subdivision k, triggering an expedited hearing. Student's issue two alleges Community Roots Academy failed to convene a manifestation determination review under the IDEA, even though it had a basis of knowledge under 20 U.S.C. section 1415 subdivision k, triggering an expedited hearing. Student's issue three alleges OAH should enforce procedural requirements of assessments through independent educational evaluations and a manifestation determination review. This issue raises expedited and non-expedited claims. Student's issue four, although does not to appear to trigger an expedited hearing in the issue statement, then explains that Community Roots Academy suspended Student for 26 days without a manifestation determination review. Thus, Student's issue four may also trigger an expedited hearing.

Once expedited issues are raised, the expedited hearing time frame applies. Accordingly, the motion to unexpedite the hearing dates must be denied. Should Student seek to proceed without an expedited hearing, Student may withdraw the expedited claims without prejudice. However, the matter cannot be unexpedited by way of Student's motion.

ORDER

1. The motion to unexpedite the matter is denied.

2. All dates for the expedited and non-expedited prehearing conferences and due process hearings remain on calendar as currently scheduled.

Cynthia Fritz

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Administrative Law Judge

Office of Administrative Hearings