BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PALO ALTO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023070050

ORDER DENYING NOTICE OF INSUFFICIENCY

JULY 10, 2023

On June 30, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Palo Alto Unified School District. On July 7, 2023, Palo Alto filed a Notice of Insufficiency as to the complaint. On July 10, 2023, Student filed an opposition.

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing for specific reasons. Specifically, an expedited hearing can be requested to appeal a disciplinary change of placement, such as placement in an alternative education setting or a manifestation determination regarding student conduct. This section requires an expedited hearing start within 20 school days from the hearing request. There is no provision for expedited hearings under section 1415(k) to

test the complaint's sufficiency. Indeed, there is insufficient time to complete the NOI process in expedited hearings.

Student's complaint alleges only expedited issues. Specifically, the complaint alleges Palo Alto inappropriately excluded Student from their IEP placement, without holding a manifestation determination meeting, regarding behaviors Palo Alto deemed behaviors causing serious bodily injury. Student alleges their behavior did not constitute serious bodily injury and that Palo Alto should have held a manifestation determination meeting. Student also alleges the inappropriateness of the interim alternative educational setting and seeks a return to the placement offered in their IEP with the addition of behavior supports.

Each of the issues alleged in Student's complaint will be heard at an expedited hearing, scheduled for July 25, 2023. Expedited hearings must be held within 20 school days of the date the complaint requesting the hearing is filed, as required under the IDEA and its regulating statutes. (34 C.F.R. § 300.532(c)(2).) Accordingly, no provision is made for a notice of insufficiency process. Palo Alto's motion is denied.

Based upon the foregoing, OAH orders as follows:

1. Palo Alto's Notice of Insufficiency is denied under title 20 United States Code section 1415(k), as the IDEA does not allow for such motions in expedited cases.
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings