

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

**IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,**

v.

**ESCONDIDO UNION HIGH SCHOOL DISTRICT.
OAH CASE NUMBER 2019080747**

**ORDER GRANTING MOTION TO UNEXPEDITE HEARING AND
DISMISSING ISSUE SIX**

On August 19, 2019, Student filed a Due Process Hearing Request, known as a complaint, against Escondido Union High School District. On August 21, 2019, based on issues asserted in the complaint, the Office of Administrative Hearings, referred to as OAH, issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation. The Scheduling Order set this matter for an expedited prehearing conference on September 9, 2019, and expedited hearing for September 17, 18, and 19, 2019.

On September 4, 2019, Student filed a motion to withdraw Issue Six and unexpedite this matter and vacate the expedited dates. OAH did not receive a response from Escondido.

APPLICABLE LAW

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), All subsequent references to the Code of Federal Regulations are to the 2006 version.) 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).) 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 if no issue is alleged that is subject to an expedited hearing, if the student withdraws the issues in the complaint that triggered the expedited hearing, or if the student elects to challenge the change of placement under title 20, section 1415, subdivision (b)(6)(A) and not subdivision (k). (*Molina v. Bd. of Educ. of Los Lunas Schools* (D.N.M. 2016) 157 F.Supp.3d 1064, 1068-1071.)

DISCUSSION

Student raised nine issues in his complaint, of those nine issues, Issue Six alleged Escondido denied him a free appropriate public education during the 2018-2019 and 2019-2020 school years by effectively expelling him despite determining his behaviors were a manifestation of his disability. OAH determined that Issue Six was expedited and set this matter for both an expedited and nonexpedited hearing.

Student has withdrawn Issue Six. None of the remaining issues in the complaint allege issues that are subject to an expedited hearing. Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted. Issue Six is dismissed.
2. The following expedited dates are vacated, expedited prehearing conference on September 9, 2019, and expedited hearing on September 17, 18, and 19, 2019.
3. The unexpedited matter shall proceed on the following dates, nonexpedited prehearing conference on October 7, 2019, and nonexpedited hearing on October 15, 16, and 17, 2019.

IT IS SO ORDERED.

DATED: September 4, 2019

DocuSigned by:
Linda Johnson
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Linda Johnson
Administrative Law Judge
Office of Administrative Hearings