

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT

v.

RIVERSIDE COUNTY OFFICE OF EDUCATION AND CORONA-
NORCO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080768

ORDER GRANTING MOTION TO UNEXPEDITE HEARING
AND VACATING THE EXPEDITED PREHEARING
CONFERENCE AND EXPEDITED HEARING DATES

SEPTEMBER 08, 2021

On August 25, 2021, Student filed a Due Process Hearing Request, known as a complaint, against Riverside County Office of Education and Corona-Norco Unified School District. 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, Scheduling Order. OAH set this matter for expedited mediation on September 9, 2021, expedited prehearing conference on September 13, 2021, and expedited hearing for September 21, 22, and 23, 2021. The

unexpedited prehearing conference is set for October 11, 2021, and the unexpedited hearing is set for October 19, 20, and 21, 2021.

On September 7, 2021, the parties filed a joint motion to unexpedite and vacate the expedited dates. On September 8, 2021, OAH denied the motion, noting that Student's Issues 14 and 15 alleged facts and raised issues that require an expedited due process hearing. However, the Order stated that Student may refile the motion to unexpedite and clarify that Student is pursuing Issues 14 and 15 solely as a denial of a free and appropriate public education. On September 8, 2021, Student filed a motion to vacate the expedited dates, affirming that Student is pursuing Issues 14 and 15 solely as a denial of FAPE. Student also canceled the expedited September 9, 2021 mediation.

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).) 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 be unexpedited or continued if no issue is alleged that is subject to an 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.)

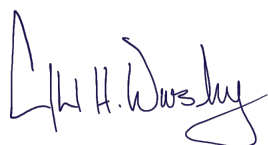
DISCUSSION

Student has demonstrated that no expedited issues are alleged in the complaint. Student's motion, and the supporting declaration of Student's legal guardian, demonstrate that all of the complaint's issues are being pursued as a denial of FAPE. Student does not allege facts that constitute an appeal pursuant to Section 1415(k)(3), and thus the mandatory provisions of Section 1415(k)(4)(B) for an expedited hearing do not apply. (*Molina, supra*, 157 F.Supp.3d 1064, 1068-1071.) Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted.
2. The expedited prehearing conference of September 13, 2021, and the expedited hearing of September 21, 22, and 23, 2021, are hereby vacated.
3. This matter shall proceed on the presently scheduled unexpedited prehearing conference of October 11, 2021, and the unexpedited hearing of October 19, 20, and 21, 2021.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley".

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings