

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2026071182

ORDER DENYING MOTION TO DISMISS EXPEDITED
HEARING WITH PREJUDICE, GRANTING EXCLUSION OF
STUDENT'S UNTIMELY DISCLOSED EXHIBITS

AUGUST 24, 2026

On July 28, 2026, Student filed a Request for Due Process Hearing in OAH case number 2026071182, Student's Case, naming Cupertino Union School District, called Cupertino. Student's Case contains both expedited and non-expedited issues, runs to 66 pages, includes 75 issues, not including subparts, seeks 37 different remedies, and contains approximately 33 pages of what are described as relevant facts. The expedited hearing is set to begin August 25, 2026.

On August 21, 2026, Cupertino filed a motion to dismiss Student's expedited due process hearing for failure to prosecute. Cupertino argued that Student untimely filed

his prehearing conference statement and failed to upload evidence by the ordered deadline. Cupertino maintained that Student's failure to comply with these procedural requirements prejudices it in preparing its defense in this case. As such, Cupertino argued Student should be prohibited from presenting any testamentary or documentary evidence at the expedited hearing against Cupertino, and the expedited hearing should be dismissed with prejudice. Cupertino further argued that Parent cannot claim ignorance of OAH requirements as he has expansive experience with OAH's filings and hearings.

Cupertino's motion was late-filed because the disclosure exchange occurred after the time to timely filed motions. Thus, the late-filed motion is excused.

On August 21, 2026, Student opposed the motion stating that Parent was involved in another due process hearing at the same time and was too busy to timely exchange the documents. As of today's date, Student uploaded approximately 150 exhibits for the hearing.

On August 18, 2026, the parties were required to exchange evidence for the August 25, 2026, expedited hearing, five business days before the hearing, under Education Code section 56505 section (e)(7). Student admitted in his opposition that he failed to timely exchange evidence with Cupertino. Further, an expedited hearing that must be conducted within 20 school days of the date an expedited due process hearing request is filed and a decision must be rendered within 10 school days after the hearing ends. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2) (2006).) Thus, a hearing continuance is not allowed.

There is an extensive history of litigation between Student and Cupertino, stretching nearly two years preceding the current matter. This history is known to the

parties and has been discussed in detail in previous OAH orders and decisions involving the parties. Student has also filed multiple cases against other respondents. Parent on behalf of Student is familiar with filings and hearings with OAH. However, a brief recounting is described below for contextual purposes.

During the 2024-2025 school year, Cupertino and Student filed several due process cases. Cupertino's case and Student's first two cases, specifically OAH Case Numbers 2024100966 and 2024110522, and OAH Case Number 2025040244, were resolved through a settlement agreement, dated April 10, 2025, called the April 2025 Settlement Agreement. As determined in the expedited decision in Student's third case, OAH Case Number 2025041265, the April 2025 Settlement Agreement included a waiver of claims through April 10, 2025.

The ALJ stated that OAH did not have jurisdiction to hear claims waived by a prior settlement agreement, and documented the authority on which OAH denied Student's attempt to evade the effect of the waiver language in the April 2025 Settlement Agreement. (See *Y.G. v. Riverside Unified Sch. Dist.* (C.D. Cal. 2011) 774 F.Supp.2d 1055, 1059-62; see also *N.P. v. Kenton County Public Schools* (E.D. Ky., Feb. 8, 2023, No. CV20-142-DLB-EBA) 2023 WL 1822833, at p. *2 [finding a waiver that bars claims under the IDEA prevents a court from reviewing those claims].) The ALJ ruling stated that if Student sought to invalidate, or set aside, a settlement agreement, Student must seek relief from a court of competent jurisdiction, such as a state or federal court. (*Y.G. supra*, 774 F.Supp.2d at pp. 1061-62.) Despite the clarity of the ALJ's findings, Parent on behalf of Student repeatedly asserted that Cupertino breached the settlement agreement in support of Student's claims in multiple motions and assertions in Student's five subsequently filed due process complaints.

The expedited decision in OAH Case Number 2025041265 also found that Student had been found eligible for special education in January 2023. However, Parents revoked their consent for special education on November 19, 2024. OAH has received no notice that Student appealed the expedited decision in OAH Case Number 2025041265.

On June 5, 2025, Parent filed Student's fourth complaint, OAH Case Number 2025060187, during an ongoing expedited due process hearing on Student's third complaint, OAH Case Number 2025041265. It included expedited and non-expedited claims. OAH set the due process hearing on the expedited claims to start on July 1, 2025, and the hearing on the non-expedited claims to start on July 15, 2025. OAH dismissed Student's only non-expedited claim for lack of jurisdiction.

The expedited hearing began on July 1, 2025. After three days of hearing and during the second witness's testimony, Parent failed and refused to proceed with testimony of the witness on the stand or another witness, who Student requested and was available to testify. Parent's comments indicated Parent wanted to end the hearing so Student could, potentially, have a different judge decide the case.

OAH issued a July 7, 2025 Order Dismissing Expedited Case with Prejudice for Failure to Prosecute, due to Student's abandonment of the case when Parent refused to continue, in the middle of a hearing day, with two witnesses waiting to testify. OAH received no notice that Student appealed that order.

On July 30, 2025, Parent filed Student's fifth complaint, OAH Case Number 2025080032. It included expedited and non-expedited claims, almost all of which were identical to those raised in Student's fourth complaint, OAH Case Number 2025060187.

The August 18, 2025 Order Following Expedited Prehearing Conference and Dismissing Claims Barred by Res Judicata dismissed parts of Student's remaining expedited issues in Student's fifth complaint. The ALJ determined that several of Student's claims were limited by the July 7, 2025 Order in OAH Case Number 2025060187 dismissing Student's claims with prejudice from November 20, 2024, to June 6, 2025. The issues considered in OAH Case Number 2025060187 were whether Cupertino failed to conduct a manifestation determination as required by state and federal law, following greater than 10 school days of disciplinary removals from Student's educational placement, including the Expanded Learning Opportunities Program, and informal suspensions between November 20, 2024, and June 6, 2025.

The final order in OAH Case Number 2025060187 dismissed these claims, with prejudice, for the period November 20, 2024, to June 6, 2025, for failure to prosecute. Therefore, Student's attempt in OAH Case Number 2025080032 to again litigate whether Cupertino failed to conduct a manifestation determination, following greater than 10 school days of disciplinary removals from the Expanded Learning Opportunities Program and informal suspensions, between November 20, 2024, and June 6, 2025, was barred.

Student filed a sixth complaint against Cupertino on September 12, 2025, designated, OAH Case Number 2025090479. In the September 30, 2025 Order Following Expedited Prehearing Conference, the ALJ who presided over that proceeding limited Student's issues to whether Cupertino violated title 20 United States Code section 1415(k) by failing to hold a manifestation determination review following more than 10 school days of disciplinary removals from Student's educational placement, including the Expanded Learning Opportunities Program and informal suspensions, between June 5, 2025, and September 12, 2025.

The ALJ in effect granted Cupertino's motion to dismiss Student's expedited claims that overlapped in time with those covered by the June 27, 2025 Expedited Decision in OAH Case Number 2025041265 and those dismissed with prejudice by the July 7, 2025 Order Dismissing Expedited Case with Prejudice for Failure to Prosecute in OAH Case Number 2025060187. The ALJ took under submission the remaining aspect of Cupertino's motion to dismiss Student's expedited claims, regarding alleged removals that occurred outside Cupertino's regular school year, specifically between June 6, and August 13, 2025. Student subsequently withdrew the case without prejudice.

Student filed a seventh complaint against Cupertino on November 5, 2025, designated, OAH Case Number 2025110210. Student raised multiple claims, similar or identical to those in previous complaints, with an applicable timeframe ending on November 5, 2025. OAH recognized that Student's multiple separate claims were arguments and contentions regarding Cupertino's alleged failure to conduct a manifestation determination review when required. Following a nine-day hearing, OAH issued an expedited decision on February 4, 2026, finding entirely in Cupertino's favor. OAH received no notice that Student appealed that decision. Notably, the ALJ in that matter reviewed Parent's litigative history before OAH and found that, Parent on behalf of Student might be deemed to be a "vexatious litigant" under Code of Civil Procedure section 391. Parent's conduct in this matter only reinforces that prior finding.

Student filed an eighth complaint against Cupertino on January 12, 2026, designated, OAH Case Number 2026010399. As with previous complaints, Student realleged multiple separate claims that were arguments and contentions regarding Cupertino's alleged failure to conduct a manifestation determination review when required. OAH determined the applicable timeframe for Student's eighth complaint was

November 5, 2025, through January 12, 2026, excluding Student's claims before November 5, 2025 as previously litigated and decided.

This matter is Student's ninth complaint against Cupertino. OAH possesses the authority to control and manage its proceedings and to require the parties to comply with applicable statutory requirements. California law requires timely disclosure of witnesses and documentary evidence in special education due process hearings, under Education Code section 56505, subdivision (e)(7), and subdivision (e)(8) permits exclusion of evidence that was not timely disclosed. (Ed. Code, § 56505.1, subd. (f).) OAH has expressly advised Parent in numerous OAH cases through its orders following prehearing conference of this statute and failure to comply could result in sanctions, including the exclusion of evidence or witnesses.

Parent's self-represented status does not excuse noncompliance with OAH orders, especially given Parent's OAH litigation history and multiple orders of dismissal for failure to prosecute. Parent's substantial prior experience in special education due process litigation is relevant to whether Parent knew, or reasonably should have known, the importance of complying with deadlines governing exhibit disclosure.

Parent's filing of 12 filings with OAH since April 2024, nine against Cupertino, is relevant to whether Parent knew or should have known, the importance of complying with deadlines governing disclosures. Further, at least three filings have resulted in due process hearings, demonstrating Parent's familiarity with the OAH hearing process. The ALJ rejects Parent's excuses of Parent's failure to abide by the disclosure law in this matter.

Parent's litigation history is considered as part of the circumstances demonstrating his knowledge of the procedural requirements that he failed to follow.

Parent's violation of the disclosure statute in this matter is not immaterial. Deadlines in proceedings exist precisely because the time available for preparation and adjudication is limited, especially in expedited hearings. Further, the ALJ is unable to continue an expedited hearing to account for Parent's failure to timely disclose evidence.

A party may not unilaterally decide that a deadline is inconvenient, disregard it, and later expect the proceeding to continue without consequence. OAH's published materials specifically recognize dismissal orders and sanctions for failure to abide with OAH's orders.

Cupertino had requested the ultimate sanction, dismissal with prejudice. The ALJ had considered it as well as lesser sanctions and finds that dismissal with prejudice is inappropriate and overly harsh.

Cupertino further requested exclusion of all documentary and testimonial evidence. The ALJ finds that exclusion of untimely disclosed exhibits an appropriate sanction under the circumstances. Based on the present record, Student appears to have not timely disclosed any exhibits; therefore, absent a timely disclosed exhibit

identified in the record, Student will proceed without the late disclosed documentary exhibits at the expedited hearing.

Nothing in this order prevents Student from proceeding with the hearing with the evidentiary sanction imposed.

IT IS SO ORDERED

A handwritten signature in cursive script that reads "Cynthia Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings