BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018041260
v.	ORDER GRANTING MOTION TO UNEXPEDITE HEARING
MENIFEE UNIFIED SCHOOL DISTRICT.	

On April 27, 2018, Student filed a Due Process Hearing Request (complaint) naming Menifee Unified School District. On April 27, 2018, based on issues asserted in the complaint, the Office of Administrative Hearings 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 an expedited mediation on May 10, 2018, an expedited prehearing conference on May 18, 2018, and a non-expedited prehearing conference on June 15, 2018, an expedited due process hearing commencing on May 24, 2018, and a non-expedited due process hearing commencing on June 26, 2018.

On May 18, 2018, Student filed a motion to withdraw the expedited issue, A, without prejudice, and vacate the expedited dates. District has not filed a response.

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).[1]) 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

[1] All subsequent references to the Code of Federal Regulations are to the 2006 version.

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 alleges in Issue A, among other issues in the complaint, that District denied her a free appropriate public education due when it failed to hold a proper manifestation determination review meeting. Student asked for an expedited hearing to address the change in placement and a non-expedited hearing to address other issues.

Student withdrew the expedited issue from the complaint. Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted. Issue A is dismissed without prejudice.

2. The following expedited dates are vacated: expedited prehearing conference on May 18, 2018, and expedited due process hearing commencing on May 24, 2018.

3. The unexpedited matter shall proceed on the following dates: prehearing conference on June 15, 2018, and due process hearing commencing on June 26, 2018.

DATE: May 18, 2018

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