BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018040361 ORDER GRANTING MOTION TO UNEXPEDITE HEARING

On April 9, 2018, Student filed a Due Process Hearing Request (complaint) naming San Luis Coastal Unified School District. On April 10, 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 April 24, 2018, an expedited prehearing conference on April 30, 2018, and a non-expedited prehearing conference on May 25, 2018, an expedited due process hearing commencing on May 3, 2018, and a non-expedited due process hearing commencing on June 5, 2018.

On April 20, 2018, Student filed a motion to withdraw the expedited issue, 2c, 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, among other issues, that District denied him a free appropriate public education due when it failed to hold a manifestation determination review meeting. OAH determined that this issue required an expedited hearing as Student's placement was changed due to disciplinary issues.

Student withdrew the issue from the complaint that is subject to an expedited due process hearing. Specifically, that District failed to conduct a manifestation determination review meeting. Accordingly, the expedited hearing dates will be vacated.

ORDER

1. The motion to unexpedite this matter is granted. Issue 2c is dismissed without prejudice.

2. The following expedited dates are vacated: expedited prehearing conference on April 30, 2018, and expedited due process hearing commencing on May 3, 2018.

3. The unexpedited matter shall proceed on the following dates: prehearing conference on May 25, 2018, and due process hearing commencing on June 5, 2018.

DATE: April 25, 2018

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