BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

RIPON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020020522

# ORDER DENYING MOTION TO UNEXPEDITE HEARING

FEBRUARY 25, 2020

Student filed a due process hearing request that raised both expedited and non-expedited issues. Thereafter, OAH issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation, Scheduling Order. On February 19, 2020, Student filed notice expressing Student's intent to proceed in a non-expedited timeframe only. Ripon did not respond to the motion.

## 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 did not dismissal of claims arising under the expedited provision of the IDEA. Regarding claims arising under both expedited and non-expedited provisions of the IDEA Student did not seek to proceed as a FAPE claim only. Rather, Student merely expressed an intent to proceed in a non-expedited timeframe. That is insufficient to dismiss the expedited claims. Student's motion is DENIED and all dates confirmed.

## IT IS SO ORDERED.

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Joy Redmon
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Joy Redmon

Presiding Administrative Law Judge

Office of Administrative Hearings