BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SPRINGS CHARTER SCHOOLS.

OAH CASE NUMBER 2023020413

ORDER GRANTING MOTION TO UNEXPEDITE HEARING

February 23, 2023

On February 13, 2023, Parent on behalf of Student filed a Due Process Hearing Request, known as a complaint, against Springs Charter Schools. On February 14, 2023, 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. The Scheduling Order set this matter for expedited mediation on February 28, 2023, expedited prehearing conference on March 6, 2023, and expedited hearing for March 14, 15 and 16, 2023.

On February 21, 2023, Student filed a motion to unexpedite this matter and vacate the expedited dates. On February 22, 2023, Springs Charter filed a non-opposition 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 argued that Student is no longer attending school at any of Springs Charter's programming and filed the due process complaint to determine the amount of compensatory education and remedies owed as a result of the denial of a free appropriate public education only. There are no placement or disciplinary issues. Springs Charter does not oppose the matter being unexpedited.

Student has demonstrated that no expedited issues were alleged in the complaint or that circumstances have changed, so that an expedited hearing is no longer required. Student is not seeking placement or return to school, and is only seeking compensatory remedies. Student does not allege facts that constitute an appeal pursuant to Section 1415(k)(3), and thus that 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 following expedited dates are vacated, the Prehearing Conference of March 6, 2023 and the hearing dates of March 14, 15 and 16, 2023. The expedited mediation scheduled for February 28, 2023 is vacated.
3. The non-expedited prehearing conference scheduled for March 27, 2023 at 10:00 a.m., and due process hearings scheduled for April 4, 5, and 6, 2023 remain on calendar.

IT IS SO ORDERED.



Brian H. Krikorian
Administrative Law Judge
Office of Administrative Hearings