BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. .CASTAIC UNION SCHOOL DISTRICT	OAH Case No. 2015111024 ORDER DENYING SECOND MOTION TO UNEXPEDITE HEARING

On November 24, 2015, Student filed a Due Process Hearing Request (complaint) against Castaic Union School District. On November 25, 2015, the Office of Administrative Hearings issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation. On December 8, 2015, the parties filed a joint motion to unexpedite this matter and vacate the expedited dates. On December 9, 2015, the motion was denied. On December 11, 2015, Student filed an amended Due Process Hearing Request (amended complaint). On December 14, 2015, OAH issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation. On December 23, 2015, the parties filed a Second Joint Motion to Unexpedite this matter and vacate the expedited dates. The grounds for the original and the second motions to unexpedite were the same, that there is no pending disciplinary matter against Student, and the disciplinary conduct at issue took place during the 2013-2014 school year. As discussed below, the second motion is denied. The expedited and unexpedited hearing dates remain as scheduled.

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).) 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.*) In sum, a matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, or if the student withdraws the issues in the complaint that triggered the expedited hearing.

DISCUSSION

In this case, Student's amended complaint alleges in Allegation 14 that District suspended him for more than 10 school days without convening a manifestation determination team meeting. While the background factual allegations concern the 2013-2014 school year, and two years have elapsed since the alleged failure to convene a manifestation determination meeting, that is not grounds to unexpedite this matter. Student's allegations regarding District's need to convene a manifestation determination team meeting lie within title 20 United States Code section 1415(k), and the hearing process for violations of these provisions of Section 1415 also lie within Section 1415(k), which provides for an expedited hearing. Neither Section 1415(k) nor the implementing regulations provide for an exception to the expedited hearing process because Student is no longer facing disciplinary conduct consequences. Accordingly, Student's and District's request to unexpedite this matter is denied.

ORDER

1. The motion to unexpedite the hearing dates is denied.

2. The hearing shall proceed as scheduled.

IT IS SO ORDERED.

DATE: December 28, 2015

/s/

JUNE R. LEHRMAN
Presiding Administrative Law Judge
Office of Administrative Hearings