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 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 (Scheduling Order). The Scheduling Order set this matter for the expedited prehearing conference is 10:00 a.m., on December 14, 2015, and expedited due process hearing on January 5 through 7, 2016.

On December 8, 2015, the parties filed a joint motion to unexpedite this matter and vacate the expedited dates as there is no pending disciplinary matter against Student since he is attending an agreed upon non-public school, and disciplinary conduct issues took place during the 2013-2014 school year.

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.*) 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.

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

DISCUSSION

In this case, Student alleges in Allegations 17 and 18 that District denied him a free appropriate public education by suspending him for more than 10 school days without convening a manifestation determination team meeting during the 2013-2014 school year. While two years have elapsed since the alleged failure to convene a manifestation determination meeting and Student no longer attends the District school in question as he attends an agreed upon non-public school, that is not grounds to unexpedite this matter. Student's allegations regarding District's need to convene a manifestation determination team meeting lay within title 20 United States Code section 1415(k), and the hearing process for violations of these provisions of Section 1415 also lay 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.[2] 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.

DATE: December 9, 2015

/s/
PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings

[2] If Student prevailed over the issues that District should have conducted a manifestation determination team meeting, the relief available is ordering District to convene such a meeting and not compensatory education, as Student does not allege that his disciplinary conduct was a manifestation of his disability and therefore he should not have been suspended and missed more than 10 school days if District had properly conducted the manifestation determination meetings.