BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ORANGE COUNTY ACADEMY OF SCIENCES AND ARTS.

OAH CASE NUMBER 2025081135

ORDER DENYING MOTION TO UNEXPEDITE HEARING

SEPTEMBER 12, 2025

On August 29, 2025, Student filed a Due Process Hearing Request, known as a complaint, against the Orange County Academy of Sciences and Arts. On that same day, 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. The Scheduling Order set this matter for expedited mediation on September 11, 2025, expedited prehearing conference on September 15, 2025, and expedited hearing for September 23, 24, and 25, 2025.

On September 10, 2025, the Academy filed a motion to unexpedite this matter and vacate the expedited dates. On September 11, 2025, Student filed a notice of 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

The Academy argues that the matter should not have been expedited because the complaint does not request an expedited hearing, was not pled as an appeal under subsection (k)(3)(A), and does not seek reinstatement in Student's previous placement. Student alleges that he was repeatedly suspended and removed from school, and not allowed to attend school for the last three weeks of the school year. The alleged conduct giving rise to his suspensions would clearly violate a code of student conduct, but the Academy did not hold a manifestation determination. Student characterizes this

failure as a denial of a free appropriate public education, not a denial of rights under subsection (k) of Title 20 of the United States Code.

However, the complaint sufficiently alleges a denial of rights under subsection (k), whether intended or not. It alleges that at least two manifestation determinations should have been held, and that the failure to do so was a denial of his right to a free appropriate public education. He alleges that at least some of the suspensions were for disability-related conduct and were "unlawful." He requests that the records of those suspensions be expunged. These allegations, collectively, adequately allege a denial of Student's rights under subsection (k) of Title 20 of the United States Code, and consequently must be heard by OAH on an expedited schedule.

Nothing in this order prevents Student from withdrawing or dismissing the expedited issues pled in the complaint.

ORDER

1. The motion to unexpedite the expedited hearing dates is denied.
2. The expedited hearing shall proceed on the expedited issues as scheduled, on September 23, 24, and 25, 2025.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings