

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT, LOS ANGELES COUNTY
OFFICE OF EDUCATION.

OAH CASE NO. 2012110282

ORDER DENYING REQUEST TO
VACATE EXPEDITED HEARING
DATES

On November 7, 2012, Student filed a Request for Due Process Hearing (complaint) naming Los Angeles Unified School District (LAUSD) and Los Angeles County Office of Education (LACOE) as respondents.

The complaint alleged that LAUSD denied Student a free appropriate public education (FAPE) during the 2010-2011 school year by: (1) failing to conduct assessments to determine present levels of performance, prior to drastically reducing services and supports; (2) failing to provide appropriate resource support and behavioral services; and (3) failing to conduct a manifestation determination prior to Student's expulsion. As against LACOE, the complaint alleged that Student was transferred from LAUSD to LACOE programs on two occasions during the 2010-2011 school year, and that LACOE failed to appropriately implement his individualized education program (IEP).

By scheduling Order dated November 9, 2012, Office of Administrative Hearings (OAH) set the matter for dual "expedited" and "non-expedited" hearing dates. The "expedited" hearing dates were set for prehearing conference on December 5, 2012, and due process hearing on December 11-13, 2012, to address only the issues which are the subject matter for an "expedited" hearing. The second hearing dates were to address all other issues raised in the complaint.

On November 26, 2012, Student filed a "Notice of Agreement to Vacate Expedited Hearing Dates," wherein Student requested that the expedited hearing dates be vacated. Student stated no explanation for the request, other than that the parties had agreed to vacate the dates. Student did not dismiss the claims giving rise to the expedited hearing.

APPLICABLE LAW

An “expedited” hearing is an appeal brought pursuant to Title 20 United States Code section 1415 (k)(3), Education Code section 48915.5, and 34 Code of Federal Regulations part 300.532. Pursuant to Title 20 United States Code section 1415 (k)(4)(B), expedited hearings must occur within 20 school days from the date the request for due process is filed with OAH, and a decision by OAH must be issued within 10 school days after the due process hearing.

DISCUSSION

Student’s claim that LAUSD failed to conduct a manifestation determination prior to Student’s expulsion is an appeal brought pursuant to Title 20 United States Code section 1415 (k)(3), Education Code section 48915.5, and 34 Code of Federal Regulations part 300.532, and is therefore expedited. OAH determines whether a matter is expedited. Any claims within the complaint that are required to be expedited will be scheduled according to the appropriate timelines. The scheduling Order in an expedited hearing will specify a mediation date, a prehearing conference date, and a due process hearing date based on the timelines applicable to expedited hearings. In cases involving expedited hearings, the mediation will be set on the 10th day after the filing, a prehearing conference will be set on the 14th day after the filing, and the expedited hearing will be set on approximately the 20th school day after the filing. A case may involve “dual” or two, timelines. If a case involves “dual” timelines, the scheduling Order will be issued with the timelines for both the expedited claims and for the non-expedited claims.

As explained in the November 9, 2012, scheduling Order, an expedited hearing must be completed within the prescribed statutory timelines, therefore, the parties may not mutually agree to different hearing dates, and continuances will not be granted except in exceptional circumstances.

Since Student’s claim giving rise to the expedited hearing has not been withdrawn or dismissed, the expedited hearing must be completed as scheduled. In other words, only if Student files a motion withdrawing and dismissing all expedited allegations in the complaint will OAH consider vacating the hearing dates. Therefore, the request to vacate the expedited hearing dates is denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

ORDER

1. Student's request to vacate the expedited hearing dates is denied.
2. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

Dated: November 27, 2012

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings