

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT

OAH CASE NO. 2010070108

ORDER DENYING REQUEST TO
UNEXPEDITE THE DUE PROCESS
HEARING REQUEST

On June 30, 2010, Student filed a request for due process hearing. Because of the allegations and the legal authority cited in support, the case was opened under the provisions of law that provide for an expedited hearing. Without citation to legal authority supporting such a request, Student requests, and represents that the District agrees, that the case be un-expedited and proceed as a regular hearing.

LEGAL AUTHORITY

A child who has not been determined eligible for special education and who violates the student conduct code may request a hearing under the law applicable to disciplinary procedures if the public agency had knowledge before the behavioral incident that the child was a child with a disability. (20 U.S.C. § 1415(k)(5); 34 C.F.R. § 300.534(a).) Whenever a hearing is requested under these provisions, the hearing must be expedited and must occur within 20 school days of the date the complaint requesting a hearing is filed. The hearing officer must make a determination within 10 school days after the hearing. (20 U.S.C. § 1415(4)(B); 34 C.F.R. § 300.532(c)(2).)

DISCUSSION

In support of the allegations, Student cites as legal authority the section of law pertaining to “Protections for children not determined eligible for special education and related services.” (20 U.S.C. § 1415(k)(8) and 34. C.F.R. § 300.457 (b).) Despite the fact that Student’s due process complaint cites the wrong code and regulatory sections, the legal recitation in support of the allegations recite the statutory and regulatory language which invoke the expedited hearing process. Student cites no legal authority for the request to un-expedite the hearing and none is found. In addition, the District has not offered any support for its support of Student’s position. Therefore, the request to un-expedite the matter is denied. This order does not preclude the Student from withdrawing this case and filing a

regular case based on allegations that Student was denied a free appropriate public education, but as currently postured, the matter must proceed as an expedited case.

ORDER

The request to un-expedite the hearing is denied. The matter shall proceed as scheduled.

Dated: July 21, 2010

/s/

ANN F. MACMURRAY
Presiding Administrative Law Judge
Office of Administrative Hearings