

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

V.

LOS ANGELES UNIFIED SCHOOL DISTRICT; OPPORTUNITIES UNLIMITED CHARTER HIGH SCHOOL; AND LOU DANTZLER PREPATORY MIDDLE SCHOOL.

OAH CASE NO. 2013030190

ORDER GRANTING STUDENT'S REQUEST TO DISMISS OPPORTUNITIES CHARTER HIGH SCHOOL FROM THE COMPLAINT

On March 6, 2013 Student filed a Due Process Hearing Request (complaint) against Los Angeles Unified School District (LAUSD), Opportunities Unlimited Charter High School (Opportunities CHS), and Lou Dantzler Preparatory Middle School (Dantzler). The complaint alleged four issues: Issue One – whether Dantzler did not comply with “child find;” Issue Two – whether Opportunities did not comply with “child find;” Issue Three – whether “child find” was violated while Student was enrolled at Washington Preparatory High School; and Issue Four – an expedited claim that Opportunities CHS failed to hold a required manifestation determination and improperly got Student’s Mother to waive it. On March 7, 2013, the Office of Administrative Hearings (OAH) issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation (Scheduling Order).

The Scheduling Order established dates for the expedited matter involving Opportunities CHS as follows: mediation - March 21, 2013 at 9:00 a.m., prehearing conference -March 27, 2013 at 10:00 a.m., and due process hearing - April 2, 2013 at 9:30 a.m. The expedited mediation was rescheduled and held March 28, 2013.

The Scheduling Order also established dates for the non-expedited matter: mediation - April 10, 2013 at 9:00 a.m., prehearing conference- April 17, 2013, and due process hearing April 23, 2013 at 9:30 a.m.

OAH issued a notice excusing LAUSD and Dantzler from appearing in the expedited matter because Student’s claims for relief were made solely against Opportunities CHS. The expedited Pre Hearing Conference was held on March 27, 2013. On March 29, 2013 Student filed a motion to dismiss Opportunities CHS from both the expedited and non-expedited portions of the case.

As discussed below, by requesting dismissal of the sole respondent against whom the expedited claims were asserted, Student has withdrawn Issue Four of the complaint that triggered the expedited hearing, and has also fully dismissed Opportunities CHS from the matter such that non-expedited Issue Two is also withdrawn.

### 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) (2006).) 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

The complaint alleges four issues. Issue Two alleges Opportunities CHS failed in its “child find” obligations to Student. Issue Four alleges Opportunities CHS violated the Individuals with Disabilities Education Act (IDEA) by failing to review the relevant information in Student’s file with parent and hold a Manifestation Determination Review Meeting within 10 school days of its decision to expel Student from school.

As discussed above, Student has requested that Opportunities CHS be dismissed from this matter completely. Accordingly, Student has withdrawn Issues Two and Four from the complaint, as they pertain solely to Opportunities CHS, and Opportunities CHS will no longer be participating in the non-expedited portion of the hearing. Student’s motion to dismiss Opportunities CHS from the complaint in its entirety is granted. The expedited hearing dates will be vacated and the non-expedited portions of the case will proceed against the remaining respondents.

### ORDER

1. Student’s request to dismiss Opportunities CHS from the expedited and non-expedited hearing this matter is granted. Issues Two and Four in the complaint are withdrawn by Student and are stricken. The date for the expedited Due Process Hearing dates is vacated.

2. The non-expedited hearing shall proceed against LAUSD and Dantzler, on the following issues only: Issue One (alleging “child find” violation at Dantzler), and Issue Three (alleging “child find” violation at Washington Preparatory High School).
3. The remaining non-expedited matter shall proceed against LAUSD and Dantzler on the following dates: Mediation- April 10, 2013 at 9:00 a.m., Prehearing Conference- April 17, 2013, and Due Process Hearing April 23, 2013 at 9:30 a.m.

Dated:

/s/

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STELLA L. OWENS-MURRELL  
Administrative Law Judge  
Office of Administrative Hearings