

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

JOHN MUIR CHARTER SCHOOL,
NEVADA COUNTY OFFICE OF
EDUCATION AND NEVADA COUNTY
SELPA.

OAH CASE NO. 2013090074

ORDER GRANTING MOTION TO
WITHDRAW EXPEDITED ISSUES
FROM COMPLAINT AND VACATING
EXPEDITED HEARING DATES

On September 16, 2013, Student filed a motion to vacate the expedited part of the hearing on the ground that Student was withdrawing the expedited issues in the complaint. Although not necessary (because it is up to student whether to withdraw claims from the complaint), District joined the motion. OAH had determined that Issue Four, in which Student alleged a manifestation determination meeting should have been held, was subject to the expedited hearing procedure of title 20 United States Code section 1415(k).

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.

Here, Student has affirmatively stated in the motion that the expedited issues that are subject to an expedited due process hearing have been withdrawn from the complaint. Specifically, Issue Four. Accordingly, the expedited hearing dates will be vacated and Issue Four is considered stricken from the complaint. All date unrelated to the expedited hearing remain on calendar.

IT IS SO ORDERED.

Dated: September 17, 2013

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings