

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. PANAMA-BUENA VISTA UNION SCHOOL DISTRICT,	OAH Case No. 2015040188
PANAMA-BUENA VISTA UNION SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015031164 ORDER DENYING MOTION TO DISMISS

On April 3, 2015, Student's parent on behalf of Student filed a request for due process hearing (complaint), naming Panama-Buena Vista Union School District as the respondent. The case alleged both expedited and non-expedited issues for hearing.

On April 8, 2015, OAH consolidated Student's case with a District-filed case, OAH case number 2015031164, and made Student's case the primary case for determination of the 45-day timeline for the non-expedited issues. The expedited and non-expedited portions of the case were set for hearing on different dates.

On April 20, 2015, OAH held a telephonic prehearing conference on the expedited case. The prehearing conference order listed three issues for the expedited hearing. The order did not address the non-expedited issues.

On April 20, 2015, District filed a motion to dismiss the expedited issues. On April 22, 2015, Student filed a request to dismiss the expedited portion of the complaint.

On May 15, 2015, OAH granted the parties' joint request for a continuance of the non-expedited issues. The non-expedited matter is now set for a prehearing conference on September 4, 2015, and a due process hearing beginning on September 14, 2015.

On July 27, 2015, District filed a motion to dismiss Student’s complaint. District argues that there were no non-expedited issues in Student’s complaint, so by dismissing the expedited issues, Student has dismissed the entire case.

Student has not filed a response to District’s motion.

DISCUSSION

Apparently District believes that, because Student called the complaint a request for “Expedited Due Process Hearing,” there were no non-expedited issues in that complaint. However, a review of the document clearly shows it contains non-expedited issues, including issues involving assessments, child-find, and failure to offer IEP services.

The OAH expedited prehearing conference order recognized the distinction, and listed only the expedited issues for hearing. Student also recognized the distinction – Student’s request to dismiss filed on April 22, 2015, referred only to the “expedited portion of the complaint.”

ORDER

District’s motion to dismiss is denied. The non-expedited matter shall proceed as scheduled.

DATE: August 7, 2015

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings