

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEVADA JOINT UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2015040374

ORDER SETTING STATUS
CONFERENCE AND CONTINUING
EXPEDITED PREHEARING
CONFERENCE AND HEARING

On April 27, 2015, Student and Nevada Joint Union High School District (Nevada) filed separate requests to vacate all dates and set a status conference in this matter claiming the parties have signed a settlement agreement and are awaiting approval of the agreement by the Board at a meeting to be held April 28, 2015. The prehearing conference for the expedited portion of this case is set to begin at 3:00 p.m. on April 27, 2014, and the due process hearing for the expedited case is set to begin April 30, 2015, at 9:30 a.m.

A child with a disability has procedural rights when faced with a change in educational placement caused by a violation of a code of student conduct. (34 C.F.R. §§ 300.530, 300.532, 300.536 (2006).)

Within 10 school days of a decision by a school district to change the placement of a child with a disability based upon a violation of a code of conduct, the district must convene an individualized educational program team meeting with the purpose of determining whether the conduct was a manifestation of the student's disability. (34 C.F.R. § 300.530(e)(2006).)

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 conducted by the district, may request and is entitled to receive an expedited due process hearing. (34 C.F.R. § 300.532(a) (2006).) The procedural right that affords the parties an expedited due process hearing is mandatory and does not allow OAH to make exceptions. (34 C.F.R. § 300.532(c)(2).) An expedited due process hearing, must occur within 20 school days of the date the complaint requesting the hearing is filed." (34 C.F.R. § 300.532(c)(2) (2006).) In California, OAH is the hearing office that assumes this responsibility for the California Department of Education. (Ed. Code, § 56504.5, subd. (a).)

The request is:

☒ Granted in part. OAH cannot continue an expedited hearing beyond 20 school days following the filing of the complaint. In this case the case was filed on March 30, 2015, but Nevada was on spring break that week. The 19th school day after the filing of the complaint in this matter is May 1, 2015. OAH will continue the PHC to May 1, 2015, at 9:30 a.m., and the due process hearing to May 4, 2015. Student should file a request for dismissal as soon as he is notified that the Board has approved the agreement.

Status Conference:	April 29, 2015, at 10:30 a.m.
Prehearing Conference:	May 1, 2015, at 10:00 am
Due Process Hearing:	May 4, 2015, at 1:30 p.m. and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: April 27, 2015

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings