

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015040720

ORDER GRANTING JOINT REQUEST  
TO CONTINUE PREHEARING  
CONFERENCE IN EXPEDITED  
HEARING AND DENYING REQUEST  
FOR TELEPHONE CONFERENCE

Student filed a request for a dual expedited and non-expedited due process hearing on April 16, 2015. On April 20, 2015, OAH set the matter for dual hearing dates. Mediation in the expedited case was set for April 30, 2015. The mediation was canceled. On May 1, 2015, the parties filed a joint request to continue the date for the prehearing conference in the expedited matter from May 8, 2015 to May 11, 2015, and to schedule a conference call with a mediator “to discuss an extension of the hearing on the expedited issues.”

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).) In such event, “(T)he SEA or LEA is responsible for arranging the expedited due process hearing, which 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).)

Accordingly, the parties’ joint request to continue the PHC is granted because the date requested for the PHC does not change the dates set for the due process hearing in the expedited matter. The parties’ request for a telephone conference with a mediator to discuss a continuance of the due process hearing in the expedited matter is denied. The PHC shall take place on May 11, 2015, at 10:00 a.m. All other dates remain as previously scheduled.

IT IS SO ORDERED.

DATE: May 01, 2015

/s/

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MARIAN H. TULLY  
Administrative Law Judge  
Office of Administrative Hearings

