

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010030558

ORDER GRANTING REQUEST TO  
VACATE EXPEDITED PREHEARING  
CONFERENCE AND HEARING  
DATES AND SETTING PREHEARING  
CONFERENCE AND CONFIRMING  
HEARING DATE

On March 4, 2010, Christian M. Knox, attorney for Student, filed a due process hearing request (complaint) against the Sacramento City Unified School District (District). On March 15, 2010, the Office of Administrative Hearings (OAH) issued a scheduling order setting an expedited due process hearing for April 1, 2010, and the prehearing conference for March 29, 2010; and a regular hearing for April 28 and the prehearing conference for April 21, 2010.

On March 24, 2010, the parties filed a stipulation to unexpedite the hearing and continue the prehearing conference. The parties indicate that they are close to a settlement. They request that the expedited prehearing conference and hearing dates be vacated and the prehearing conference be held on April 1, 2010..

APPLICABLE LAW

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 (IEP) 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).) If the IEP team determines that the conduct was not a manifestation of the disability, then the school district may apply relevant disciplinary procedures applicable to children without disabilities, except that the district must continue to provide educational services. (34 C.F.R. § 300.530(c), (d)(i), (ii) (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).) In such event, OAH “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); Ed. Code, § 56504.5, subd. (a).) I

## DISCUSSION

The parties have brought a joint motion to unexpedite the matter and to continue the prehearing conference to allow the parties time to finalize a settlement. They state Student has returned to his educational setting. Additionally, the parties state that they have participated in mediation and are continuing their settlement discussions.

When a student with a disability faces a change in placement based upon an alleged violation of a code of conduct, the procedural right that affords the parties an expedited due process hearing is mandatory and does not allow OAH to make exceptions. However, if the potential for a change in placement based upon an alleged violation of a code of conduct is removed as an issue from the complaint, OAH has discretion to continue the matter. The parties have established that Student has been returned to his educational placement. Further, the parties are engaged in ongoing settlement discussions. Accordingly, the expedited hearing in this matter is vacated, and good cause having been established, the prehearing conference in this matter is continued.

## ORDER

1. The expedited prehearing conference date of March 29 and hearing date of April 1, 2010, are vacated.

2. The matter is set as follows:

Prehearing Conference:	April 1, 2010, 10:00 a.m.
Hearing:	April 28, 2010

Dated: March 26, 2010

/s/  
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JUDITH A. KOPEC

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Presiding Administrative Law Judge  
Office of Administrative Hearings