

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FORTUNE SCHOOLS.

OAH Case No. 2014050360

ORDER GRANTING REQUEST TO
WITHDRAW EXPEDITED ISSUE NO.
2.C AND VACATING DATES FOR
EXPEDITED HEARING

On May 15, 2014, Student filed a Due Process Hearing Request (complaint) against Fortune Schools (Fortune). On May 20, 2014, the Office of Administrative Hearings issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation (Scheduling Order). The Scheduling Order set this matter on a dual calendar, with the expedited matter being set for hearing on June 10 through 12, 2014, with a prehearing conference on June 2, 2014.

On May 29, 2014, OAH denied the parties' joint request to unexpedite the hearing. On May 29, 2014, Student filed a letter withdrawing Issue No. 2c which triggered the setting of the expedited hearing.

APPLICABLE LAW

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.

DISCUSSION

Student has withdrawn the sole issue from the complaint that was subject to an expedited due process hearing. Accordingly, the expedited hearing dates will be vacated.

ORDER

1. Student's request to withdraw expedited Issue No. 2c is granted and the matter will proceed on an unexpedited basis.
2. The following expedited dates are vacated: prehearing conference on June 2, 2014, and hearing on June 10 through 12, 2014.
3. This matter shall proceed on the following dates: Mediation on June 19, 2014 at 9:30 a.m.; prehearing conference on June 30, 2014, at 3:00 p.m., and hearing on July 9, 2014, at 9:30 a.m., continuing day to day, Monday through Thursday, unless ordered otherwise.

DATE: May 30, 2014

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings