

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

COTATI ROHNERT PARK UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2015100151

ORDER GRANTING MOTION TO
WITHDRAW EXPEDITED ISSUE,
VACATING EXPEDITED
MEDIATION, PREHEARING
CONFERENCE, AND DUE PROCESS
HEARING DATES

Student filed a due process hearing request on September 30, 2015, naming Cotati Rohnert Park Unified School District as respondent. It was determined that Student's complaint potentially raised issues triggering the disciplinary provisions of the Individuals with Disabilities Education Act and corresponding California law, and the matter was designated as a dual case, with both expedited and non-expedited dates set for mediation, prehearing conference, and due process hearing.

On October 20, 2015, Student submitted a request to continue the dates set in the expedited matter to those in the non-expedited matter because his advocate is ill this week. On October 20, 2015, Student then submitted a motion to withdraw the expedited issues in this case asserting that, "Student's urgent needs are no longer a concern in this matter." No response was received from Cotati Rohnert Park.

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

OAH is obligated to liberally construe pleading requirements in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.¹ This same principle extends to broadly interpreting the entire complaint and not just reading the issues in isolation.

In this case, Student's complaint includes in its proposed resolution a reference to the fact that Student was expelled. As noted above, the protections of an expedited due process hearing are not limited to challenges to the manifestation determination but also extend to disagreements regarding changes in educational placement based upon violations of the code of student conduct. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).)

The request could be analyzed by an Administrative Law Judge under both the expedited and non-expedited portions of the IDEA and corresponding California law regarding placement decisions made, or not made, that led to Student's request for reimbursement for his private placement during the 2015-2016 school year. Student's motion makes clear that he does not challenge or seek a determination of any potential violations arising under the disciplinary provisions of the IDEA. Therefore, the expedited dates will be vacated. Student will be precluded from arguing any violations of the disciplinary provisions of the law that would have resulted in an expedited hearing, including those contained in 20 U.S.C. section 1415(k)(3)(A); 34 C.F.R. section 300.532(a) (2006); and corresponding California law.

The result of this order is that all dates scheduled in the expedited matter will be vacated. Accordingly, it renders Student's motion to continue the expedited hearing dates to the non-expedited dates moot.

ORDER

1. Student's motion to unexpedite this matter is granted.
2. All expedited dates are vacated and the matter will proceed on the non-expedited dates currently on calendar.

¹ *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

3. Student is precluded from raising any arguments in the due process hearing indicating violations of any provision of the IDEA and corresponding California law that would have led to an expedited hearing.
4. Student's request to continue the expedited dates to the non-expedited dates is moot.

IT IS SO ORDERED.

DATE: October 20, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings