BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

FREMONT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020100499

ORDER GRANTING REQUEST FOR CONTINUANCE OF DUE PROCESS HEARING AND SETTING PREHEARING CONFERENCE AND DUE PROCESS HEARING

NOVEMBER 23, 2020

On November 18, 2020, Freemont Unified School District filed with the Office of Administrative Hearings, referred to as OAH, a request to continue this matter, based upon the possibility that both of Freemont Unified's attorneys assigned to the matter may not be available for hearing. On November 20, 2020, Student filed a non-opposition to the request but offered alternative dates. On November 23, 2020, Freemont Unified's attorney notified OAH in writing, copied to Parent, that it had no objection to Student's proposed new dates. The prehearing conference is set for November 30, 2020, and the hearing is set for December 8, 9, and 20, 2020.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The parties have agreed on new dates. Therefore the request to continue is granted. The hearing will be scheduled as follows:

PREHEARING CONFERENCE: January 11, 2021, 3:00 p.m., by videoconference or telephone.

DUE PROCESS HEARING will be held videoconference on January 26, 27, and 28, 2021.

PARTICIPANT INFORMATION SHEETS FOR THE PREHEARING CONFERENCE MUST BE FILED TWO BUSINESS DAYS BEFORE THE DATE OF THE SCHEDULED EVENT.

The hearing shall begin at 9:30 a.m. on all hearing days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge.

Prehearing conference statements and prehearing motions are due to OAH no later than three business days before the prehearing conference or with a showing of good cause why it was not possible to file the motion by that date.

IT IS SO ORDERED.

Adrienne L. Krikorian

Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings