BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

FREMONT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024020802

ORDER DENYING STUDENT'S REQUEST TO ADVANCE PREHEARING CONFERENCE AND DUE PROCESS HEARING DATES

MARCH 6, 2024

On February 25, 2024, Student filed a due process request, called a complaint, naming Fremont Union High School District. Fremont Union High School District is referred to as Fremont District. Office of Administrative Hearings is called OAH. Prehearing conference is called PHC. Local Educational Agency called LEA. Individual educational plan is called IEP.

OAH issued the Scheduling Order setting the PHC on April 8, 2024 and the due process hearing on April 17, 18 and 19, 2024. Also, Fremont District filed a Notice of

Representation on February 26, 2024. On February 29, 2024, Fremont District sent Student an email that stated,

"I am writing to inquire whether you would be agreeable to waive the resolution session and instead agree to participate in mediation. If so, please let me know if you have any preferred dates and my office can prepare the paperwork."

Student did not agree to the District's offer to mediate and filed this motion on March 1, 2024. On March 4, 2024, Fremont District filed its opposition to this motion. On March 5, 2024, Student filed a reply brief.

Student contends that the PHC and due process hearing dates should be advanced because Fremont District's email was a complete waiver of the resolution session requirement. Fremont District contends the email was a conditional waiver of the resolution session based on a joint agreement to mediate.

The local educational agency shall convene a resolution meeting with the parents and the relevant member or members of the individualized education program team who have specific knowledge of the facts identified in the due process hearing request, in accordance with 1415(f)(1)(B) of Title 20 of the United States Code and Section 300.510 of Title 34 of the Code of Federal Regulations. The parent and local educational agency shall determine the relevant members of the individualized education program team to attend the meeting. (Ed. Code §56501.5 subd. (a).)

The meeting shall be convened within 15 days of receiving notice of the due process hearing request of the parent. (Ed. Code §56501.5 subd. (a)(1).)

The resolution meeting described in subdivision (a) need not be held if the parents and the local educational agency agree in writing to waive the meeting or agree

to use the mediation process as provided for in this chapter. (Ed. Code §56501.5 subd. (b).)

If the local educational agency fails to hold the resolution meeting specified in subdivision (a) within 15 days of receiving notice of a due process hearing request of a parent or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline. (Ed. Code §56501.5 subd. (e)(2).)

In the present case, Fremont District did not waive its requirement to hold a resolution session because the email included an invitation to mediate. Since Student did not agree to mediate, the need to request the intervention of a hearing officer to advance the due process hearing timeline was not triggered under these circumstances. Therefore, Student's motion is denied.

All existing prehearing conference and due process hearing dates are confirmed and will proceed as calendared.

IT IS SO ORDERED.

Thanayi Lindsey
Thanayi Lindsey (Mar 7, 2024 10:40 PST)

Thanayi Lindsey
Administrative Law Judge
Office of Administrative Hearings