BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: FREMONT UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017021203 ORDER CONTINUING HEARING TO MAY 8, 2017, AND SPECIFYING MATTERS TO BE CONSIDERED

This matter was heard on April 26, and 27, 2017, at the Fremont Unified School District. Alejandra Leon, Attorney at Law, represented Fremont. Father represented Student. Administrative Law Judge Rebecca Freie conducted the hearing.

Continuance

On April 25, 2017, Father filed a request to continue the hearing to May 8 and 9, 2017, due to the unavailability of one of his witnesses, Dr. Elea Bernou. The request was denied on the record on April 26, 2017. Fremont called four witnesses to testify on April 26, 2017, including Father.

At the conclusion of testimony on April 26, 2017, Father was ordered to contact Dr. Bernou, and/or the other two witnesses he listed in his prehearing conference statement as potential witnesses. He was ordered to return on April 27, 2017, and provide information as to when the witnesses could appear, and make an offer of proof as to their testimony. On April 27, 2017, Father appeared and stated that he had been unable to contact Dr. Bernou. He was unsure as to what testimony any of the three witnesses listed in his prehearing conference statement could provide that was relevant to the single issue in this case: whether Fremont can assess Student without parental consent. Because Father's motion to continue the case filed on April 25, 2017, indicated that Dr. Bernou could testify on May 8, 2017, the hearing is continued to that date, at 9:30 a.m., at Fremont's office at 4210 Technology Drive, Fremont, California 94538.

If Father has no witnesses to call on May 8, 2017, he shall notify OAH and Fremont's attorney of that fact no later than noon on May 5, 2017. OAH shall then notify the parties as to how the matter will proceed on May 8, 2017. No further continuances will be granted without a significant showing of good cause. The matter will not be continued due to the absence of a witness who has not been subpoenaed.

Exhibits

On the first day of hearing Father was presented with documents he had subpoenaed from Fremont. On April 27, 2017, Father asked that one of these documents be admitted in evidence. The exhibit was not admitted on the ground that it is not relevant, but it will remain as part of the administrative record as Father has not withdrawn it.

Father's exhibit binder was discussed. Father sought to introduce only two exhibits in his evidence binder into evidence on April 26, 2017, and one of the exhibits was admitted. Father indicated that he was willing to submit a list of exhibits he now wishes to withdraw. He shall do so no later than close of business on Thursday, May 4, 2017. Any remaining exhibits will be considered for admission at the hearing on May 8, 2017. All of Fremont's exhibits were admitted into evidence with the exception of one that was withdrawn by Fremont.

Witnesses at Hearing on May 8, 2017

On May 8, 2017, Father shall make an offer of proof as to the testimony he believes his witness or witnesses will proffer. No witnesses for Father, other than those listed in his PHC statement, will be permitted to testify. Father must establish by way of offer of proof that the testimony of his witness or witnesses is relevant to the issue presented. Based on Father's offer of proof, the ALJ shall determine whether the witness or witnesses can testify. The ALJ has consented to Dr. Bernou testifying telephonically if she is permitted to testify. Pursuant to the PHC order, any witness testifying telephonically must have copies of both parties' evidence binders, supplied by the party calling the witness.

Closing Arguments

The parties' request to submit written closing arguments is granted. The written closing arguments shall be no longer than 10 pages, shall be double spaced, and the parties shall use at least 12 point font. Closing arguments shall be filed with OAH no later than May 24, 2015, at 5:00 p.m.

IT IS SO ORDERED

DATE: April 27, 2017

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings