BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

PARENTS ON BEHALF OF STUDENT,

V.

FREMONT UNION HIGH SCHOOL DISTRICT.

CASE NO. 2025070664

DECISION

DECEMBER 10, 2025

On July 18, 2025, Parents on behalf of Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Fremont Union High School District, called Fremont Union. On August 21, 2025, and September 24, 2025, OAH granted motions to continue the due process hearing. Administrative Law Judge Cynthia Fritz heard this matter on October 21, 22, and 28, 2025.

Parent "A" represented Student. Student attended a portion of hearing day two. Attorney Elizabeth Schwartz represented Fremont Union. Fremont Union Director of Educational and Special Services Nancy Sullivan attended all hearing days.

(This space is intentionally left blank. Text continues on the following page.)

At the parties' request, the matter was continued to November 12, 2025, for submission of closing briefs. On November 12, 2025, the parties submitted closing briefs, and the record was closed and the matter submitted.

On November 14, 2025, Fremont Union filed a motion to strike portions of Student's closing brief that exceeded the 20-page brief limit. On November 17, 2025, Student filed an opposition to Fremont Union's motion claiming no prejudice to Fremont Union, and that OAH routinely allows briefs that exceed the page limit.

The undersigned explained at hearing that the closing briefs should not exceed 20 pages excluding a table of contents, table of authorities, and proof of service. At that time, Parent "A" was given the opportunity to ask questions. Parent "A" requested clarification regarding the page limit and the undersigned explained that the argument portion of the brief was limited to 20 pages. Parent "A" did not ask any further clarifying questions regarding this issue and appeared to understand the closing brief requirements.

Student's closing brief totaled 34 pages, despite the ordered page limitations from the undersigned. Page one of Student's brief is a cover page and page two is the table of contents. Pages three through 20 contain Student's argument. Pages 21 through 33 is a table of statutes, decisions, and cases, and pages 33 through 34 contain the proof of service.

Although this appears permissible under the undersign's order, Student has interwoven substantive argument throughout pages 21 through 33. This constitutes an improper attempt to circumvent the page limit by embedding additional briefing within

sections that were expressly exempted only for indexing purposes. OAH orders are not advisory, and parties are not permitted to enlarge the record by disguising argument as authority tables.

Accordingly, Fremont Union's motion to strike portions of Student's brief is granted in part. All argument, whether explicit or embedded, appearing on pages 23 through 33 of Student's closing brief is hereby stricken in its entirety and will not be considered for purposes of this Decision.

ISSUES

On October 21, 2025, before the evidentiary portion of the hearing began, the undersigned clarified the hearing issues with the parties. The issues to be adjudicated in this case are set forth below.

A free appropriate public education is called a FAPE.

1. Did Fremont Union deny Student a FAPE by failing to provide Parent a legally valid prior written notice in May 2025.
2. Did Fremont Union deny Student a FAPE by unilaterally changing Student's placement during the 2024-2025 school year through the time of filing?

(This space intentionally left blank. Text continues on the following page.)

JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, called IDEA, its regulations, and California statutes and regulations. (20 U.S.C. § 1400 et. seq.; 34 C.F.R. § 300.1 (2006) et seq.; Ed. Code, § 56000 et seq.; Cal. Code Regs., tit. 5, § 3000 et seq.) The main purposes of the IDEA are to ensure:

- all children with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and
- the rights of children with disabilities and their parents are protected. (20 U.S.C. § 1400(d)(1); see Ed. Code, § 56000, subd. (a).)

The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511 (2006); Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L.Ed2d 387]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).)

Here, Student bore the burden of proof on all issues. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was 16 years old and in 11th grade at the time of hearing. Student resided with Parents within Fremont Union's boundaries at all relevant times.

ISSUE 1: IS FREMONT UNION'S MAY 2025 PRIOR WRITTEN NOTICE LEGALLY COMPLIANT?

Student contends that Fremont Union's May 27, 2025 prior written notice was not appropriate because it exited Student from special education without parental consent and relied on a previous school district's assessment that Parent "A" claims is illegal. Fremont Union contends that Student failed to present any evidence that the prior written notice was legally incompliant and argues it is an appropriate prior written notice.

A FAPE means special education and related services that are available to an eligible child that meets state educational standards at no charge to the parent or guardian. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17 (2006).) A child eligible for special education must be provided access to specialized instruction and related services which are individually designed to provide educational benefit through an individualized education program, called IEP, reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick Hudson Central School Dist. v. Rowley* (1982) 458 U.S. 176, 201-204; *Endrew F. v. Douglas County School Dist. RE-1* (2017) 580 U.S. 386, 401; 20 U.S.C. § 1401(3)(A); 34 C.F.R. § 300.8(a) (2017).)

(This space intentionally left blank. Text continues on the following page.)

A public agency must provide a prior written notice to parents of a child with exceptional needs upon initial referral for assessment, and a reasonable time before the public agency initiates or changes, or refuses to initiate or change, the identification, assessment, or educational placement of the child, or provision of FAPE to the child. (20 U.S.C. § 1415(b)(3); 34 C.F.R. § 300.503 (2006); Ed. Code, § 56500.4, subd. (a).)

The notice is required to include a description of:

- The action proposed or refused by the agency;
- An explanation why the agency proposes or refused to take the action and a description of each evaluation procedure, assessment, record, or report used by the agency as a basis for the proposed or refused action;
- A statement that the parents of a child with a disability have protection under the procedural safeguards, and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- Sources for a parent to contact to obtain assistance;
- A description of other options considered and the reasons why those options were rejected; and
- Other factors relevant to the proposal or refusal of the agency.

(20 U.S.C. § 1415(c)(1); 34 C.F.R. § 300.503(b)(4) & (5) (2006); Ed. Code, § 56500.4, subd. (b).)

(This space intentionally left blank. Text continues on the following page.)

The purpose of the prior written notice requirement is to ensure that "parents of a child with a disability are both notified of decisions affecting their child and given the opportunity to object to these decisions." (*C.H. v. Cape Henlopen Sch. Dist.* (3rd. Cir. 2010) 606 F.3d 59, 70.)

SPECIAL EDUCATION BACKGROUND

Student became special education eligible in 2017. Student's last psychoeducational assessment was completed in September 2020. Student's last speech and language assessment was completed in January 2021. Student's last academic assessment was completed in January 2022. The psychoeducational and speech and language assessors opined that Student did not meet or no longer met special education eligibility criteria in any of the tested areas.

Student's previous school district of attendance, Cupertino Elementary School District, did not exit Student from special education. Student entered Fremont Union in the 2023-2024 school year for ninth grade. Thus, upon entry into Fremont Union, Student was special education eligible and Fremont Union provided services to Student based on Student's last agreed-upon and implemented IEP, from December 12, 2018, when Student was in fourth grade.

Fremont Union attempted to assess Student during the 2023-2024 school year and 2024-2025 school year without success. Fremont Union Director of Educational and Special Services Nancy Sullivan testified as to Fremont Union's efforts to obtain Parents' consent to assess Student and attend IEP team meetings before filing for due process hearing in November 2024. Sullivan's explanations of Fremont Union's efforts were corroborated by the documentary evidence in the record. Her testimony was clear,

detailed, and internally consistent. She was not impeached by cross-examination and Student offered no persuasive evidence undermining the accuracy of her statements or recollection of events. Thus, Sullivan's testimony was credible and given significant weight. The evidence showed Parents unreasonably refused to consent to Fremont Union's requests to assess Student and to attend IEP team meetings during the 2023-2024 school year through November 2024.

Fremont Union filed for due process hearing with OAH in November 2024 to facilitate assessing Student without parental consent. On April 22, 2025, Administrative Law Judge Senter determined that Parents had been uncooperative with Fremont Union's ability to assess Student. He authorized Fremont Union to assess Student in accordance with the assessment plan dated May 15, 2024, and updated on October 23, 2024, with qualified assessors and assessment tools of its choice, without parental consent. Parent "A" was ordered to cooperate in making Student reasonably available for each assessment.

Beginning April 25, 2025, Fremont Union attempted to assess Student without success. Fremont Union staff members, Sullivan, Dr. Brittany Stevens, Anne Greene, and Nicole Tseng spent considerable time during hearing discussing their efforts to assess Student. The accounts were mutually corroborative and were further supported by contemporaneous documentary evidence. The witnesses testified credibly and without contradiction. Their testimony was consistent with the documentary record, demonstrated personal knowledge of the events, and reflected no bias or motive to misrepresent the facts.

(This space is intentionally left blank. Text continues on the following page.)

Parent "A"'s efforts on behalf of Student to contradict the corroborated testimony and evidence was unpersuasive. Parent's statements raised serious doubts about the reliability of his testimony because it was unsupported by other documentary and testimonial evidence. For example, Student, Greene, Tseng, Sullivan, and Stevens, testified that after an attempt was made to assess Student in May 2025, Student called Parent "A" for permission which he denied. Parent "A" denied this call happened. Yet, the call was corroborated by all Fremont Union witnesses and Student, and further supported by Fremont Union's testing schedule which documents that Student called Parent "A". Parent "A"'s version of events was contradicted by contemporaneous documentation and testimony. Thus, Parent "A"'s testimony lacked credibility. As such, the testimony of Sullivan, Stevens, Greene, and Tseng, was given greater weight.

Parent "A" did not make Student reasonably available for assessments from April 25, 2025, through May 27, 2025, and during that time Student herself refused Fremont Union's attempt to assess her. This Decision finds Parent "A"'s conduct uncooperative and unreasonable, and inconsistent with Administrative Law Judge Senter's Decision.

After unsuccessful efforts by Fremont Union to assess Student, on May 27, 2025, Fremont Union drafted a prior written notice and sent it to Parents on May 28, 2025. The prior written notice notified Parent "A" Student would be exited from special education effective June 5, 2025, the last school day of the 2024-2025 school year.

(This space intentionally left blank. Text continues on the following page.)

STUDENT FAILED TO PROVE THE MAY 27, 2025 PRIOR WRITTEN NOTICE WAS LEGALLY INCOMPLIANT

At hearing, Student failed to present any persuasive evidence that the prior written notice did not comply with the procedural requirements under the IDEA and California law. The only relevant exhibit regarding this issue was the prior written notice itself, and no witnesses or documentary evidence were presented to establish that the notice was legally deficient.

Instead, Student focused mostly on substantive objections to the prior written notice claiming that Fremont Union impermissibly exited Student from special education eligibility, but did not allege that Fremont Union failed to comply with any requirements governing the issuance of a prior written notice. The issue here concerns the prior written notice's procedural compliance, not its substantive content. Thus, any substantive arguments are outside the scope of this issue and will not be addressed here.

Fremont Union's May 27, 2025 prior written notice complied with all of the procedural requirements under the IDEA and corresponding California law. The prior written notice provided a clear description of the action Fremont Union proposed to take, and explained that Student's eligibility would be changed to "does not qualify" and that her special education and related services would terminate effective June 5, 2025, the last day of the 2024-2025 school year.

It included an explanation of the reasons for the proposed action including that Parent "A" had directed Student not to participate in assessments and incorrectly claimed Fremont Union would have to wait for the 90-day time period for Parent "A" to

file a possible appellate action before assessments could occur. The prior written notice further explained that Cupertino Elementary had found Student did not meet criteria for special education eligibility but because Parent "A" refused to allow Fremont Union to assess her, it had no current information demonstrating that she remained eligible.

The prior written notice identified the records, reports, and information that Fremont Union relied upon. It stated it reviewed all relevant information in Student's file, including

- report cards,
- prior IEPs,
- attendance records,
- Parent and teacher input,
- correspondence,
- past assessment reports, and the
- April 2025 OAH Decision authored by Administrative Law Judge Senter.

The prior written notice included a description of other factors considered by Fremont Union and stated that no other information, options, or factors were considered when making this decision except that it contemplated keeping Student eligible for special education but rejected it for lack of current information due to Parent "A"'s refusal to allow Student to be assessed. The prior written notice informed Parents of their rights under the IDEA procedural safeguards, and attached a link to the

Notice of Procedural Safeguards. The prior written notice included sources for Parents to contact for assistance, including contact information for the Special Education Local Plan Area and California Department of Education.

Student argued that the reference to the Cupertino Elementary 2020 assessment in the prior written notice, that Parent "A" believed was an unauthorized and illegal document, makes the notice legally incompliant. However, the reference to a previous assessment does not speak to any of the procedural compliance criteria of the prior written notice.

Thus, Student failed to meet her burden of proof that the May 27, 2025 prior written notice that was received by Parent "A" on May 28, 2025, was legally incompliant and denied Student a FAPE.

ISSUE 2: DID FREMONT UNION UNILATERALLY CHANGE STUDENT'S PLACEMENT DURING THE 2024-2025 SCHOOL YEAR THROUGH THE TIME OF FILING?

Student claims that Fremont Union denied Student a FAPE because it impermissibly exited Student from special education through its May 2025 prior written notice, constituting a change in placement. Student also maintains that Fremont Union violated Administrative Law Judge Senter's April 22, 2025 Decision when it exited Student from special education.

Fremont Union argues that it was given the authority to assess Student without parental consent on April 22, 2025, and when Parent "A" did not make Student reasonably available for assessment as ordered, it could legally exit Student from

special education without a due process hearing. Further, it argues, exiting Student from special education during the 2024-2025 school year is a change of identification, not a change of placement, because it did not cease special education services to Student until the start of the 2025-2026 school year.

The central questions in this issue are whether Fremont Union's removal of Student from special education eligibility constituted a change in placement, when that change occurred, and whether it denied Student a FAPE. To make those determinations, an analysis of the permissibility of Student's exit for special education by Fremont Union is necessary.

FREMONT UNION IMPERMISSIBLY EXITED STUDENT FROM SPECIAL EDUCATION BY MAKING THE DECISION OUTSIDE OF THE IEP TEAM MEETING PROCESS

As already discussed, it is undisputed by the parties that Fremont Union informed Parent "A" on May 28, 2025, of its decision to exit Student from special education effective June 5, 2025. Fremont Union maintained that Student's exit was appropriate because Parent "A" refused to make Student available for assessments and a previous assessment from 2020 opined that she was no longer eligible for special education.

On June 4, 2025, Parent "A" objected in writing to Fremont Union's proposal and requested it allow Student to remain in her then-current placement during the pendency of their dispute. On June 5, 2025, Fremont Union exited Student from special education eligibility. On June 10, 2025, Sullivan informed Parent "A" that Student had been exited from special education eligibility, declined to implement the

last agreed-upon IEP, and advised Parent "A" that he could file for due process and request OAH invoke Student's stay put rights. Student filed this due process complaint the following month.

Once a child is found eligible for special education, unless specific statutory exceptions apply, a district must conduct assessments before determining whether the child is no longer a child with a disability. (20 U.S.C. § 1414(c)(5)(A).) After the district completes assessments, the district must convene an IEP team meeting to determine eligibility and either develop a new IEP or properly exit the child if the assessment data shows the student no longer meets criteria. (*V.S. ex rel. A.O v. Los Gatos-Saratoga Joint Union High Sch. Dist.* (9th Cir. 2007) 484 F.3d 1230, 1233.)

While a school district may not be required to hold an IEP team meeting for every prior written notice issuance, if it involves proposing or refusing to initiate a change in identification, evaluation, educational placement, or FAPE, it must first be decided through the IEP process and allow parental participation. (34 CFR §§ 300.327 (2006); 300.501 subd. (b) & (c)(1) (2006).) School districts may not unilaterally predetermine a child's special education and related services before conducting an IEP team meeting. (Deal v. Hamilton County Bd. of Educ. (6th Cir. 2004) 392 F.3d 840, 858., cert. denied, 546 U.S. 936 (U.S. 2005).)

Here, Fremont Union did not assess Student before exiting her. Parent "A" unreasonably refused to allow Student to be assessed after Administrative Law Judge Senter's Decision, from April 25, 2025, through May 27, 2025. Typically, parents who want their children to receive special education services must allow assessment by the

school district. (*Gregory K. v. Longview Sch. Dist.* (9th Cir. 1987) 811 F.2d 1307, 1315.) Parent "A"'s unreasonableness, however, did not alleviate Fremont Union's other legal obligations to Student.

Although Parent "A"'s and Student's unreasonable and uncooperative conduct blocked Fremont Union from assessing Student, it failed to hold an IEP team meeting to allow the IEP team to determine Student's continued eligibility. Fremont Union did not address this in its closing brief. Instead, Fremont Union distinguished between a change of placement from a change of identification, and argued the exiting of Student during the 2024-2025 school year constituted only a change of identification and thus allowable. This distinction, however, does not alter the legal outcome on the permissibility of the exit.

Even assuming, for argument's sake, that the exit during the 2024-2025 school year was solely a change of identification, it required such a determination be made by Student's IEP team. (34 CFR §§ 300.327 (2006); 300.501 subd. (b) & (c)(1) (2006).) Further, eligibility determinations, whether an initial determination or to exit a student from special education, must be made through the IEP team process, not by unilateral administrative action. (20 U.S.C. § 1414(b)(4)(A); 34 C.F.R. §§ 300.305(a)(iii)(A) (2007); 300.306(a)(1) (2017). Here, Fremont Union's decision to exit Student from special education occurred outside of the IEP team meeting process.

The evidence presented demonstrated that after both Parent "A" and Student did not cooperate with assessments in May 2025, Sullivan drafted the prior written notice to exit Student from special education. No evidence showed that Fremont Union conducted an IEP team meeting to allow Student's IEP team members to make this determination.

IDEA places paramount importance on parental participation in all decisions concerning identification, evaluation, eligibility, and placement. (20 U.S.C. § 1415(b)(1).) The U.S. Supreme Court has affirmed that parental participation is a central procedural safeguard of IDEA. (*Winkleman v. Parma City School Dist.* (2007) 550 U.S. 516, 524 [127 S.Ct. 1994, 167 L.Ed.2d 904].) The Ninth Circuit holds that meaningful parental participation is "among the most important" protections guaranteed by IDEA. (*Amanda J. v. Clark Cnty. Sch. Dist.* (9th Cir. 2001) 267 F.3d 877, 882.) And an educational agency must therefore permit a child's parents "meaningful participation" in the IEP process. (*Ms. S. v. Vashon Island School District* (9th Cir. 2003) 337 F.3d 1115, 1131-1132.)

Despite these requirements, Fremont Union made its decision to exit Student entirely outside the IEP process. Fremont Union spent considerable time at hearing admitting evidence and testimony about its previous attempts to get Parent "A" to attend IEP team meetings during the 2023-2024 and 2024-2025 school years. However, no evidence was presented between April 22, 2025, through May 27, 2025, after Administrative Law Judge Senter's Decision to allow assessment without parental consent, that Fremont Union sent any notices to Parent "A" for an IEP team meeting, attempted to hold any IEP team meetings, conducted any IEP team meetings, or documented any refusals by Parent "A" to attend any IEP team meetings.

Under narrow circumstances, a unilateral IEP can be appropriate:

- when a school district first attempts to develop the IEP in the context of an IEP team that includes the child's parents (20 U.S.C. § 1414(d)(10)(B), 34 C.F.R. § 300.321(a) (2007);

- so that parents be given prior written notice of any revision to the IEP outside of an IEP team meeting (34 C.F.R. § 300.503(a) (2006); and
- so that the new offer not be implemented without parental consent (20 U.S.C. 1415(j); 34 C.F.R. 300.518(a) (2006); *Anchorage School District v. M.P.,* 689 F.3d 1047, 1057 (9th Cir.2012) ("*Anchorage* ").

In cases in which the Ninth Circuit has found predetermination or serious infringement on parental participation, the school district generally developed the entire IEP without any parental input, refused to accommodate the parents' requests to reschedule, or committed other serious errors in conjunction with the failure to secure parental participation.

In *Anchorage, supra,* 689 F.3d 1047, the parent failed to attend an annual IEP meeting and instead provided extensive written commentary on the school's IEP draft offer. The school district then chose to use a two year-old IEP, rather than continue the IEP process to consider the parents' input. The Ninth Circuit found this to be a substantive violation of the school district's obligation to have a revised IEP in place every year. (*Id*. at 1056.)

Similarly, in *W.G. v. Board of Trustees of Target Range School Dist. No. 23* (9th Cir. 1992) 960 F.2d 1479, 1484-85, superseded on other grounds by statute (*Target Range*); *Fuhrmann v. East Hanover Board of Education* (3rd Cir. 1993) 993 F.2d 1031, 1036 (*Fuhrmann*).), the school district committed numerous procedural errors, including failing to bring the parents back to the table after they left the meeting in frustration.

(*Target Range,* supra, 960 F.2d at 1484–85.) And, in *Doug C. v. Hawaii Department of Education* 720 F.3d 1038 (9th Cir.2013), the court found that the school district failed to accommodate parent's IEP meeting scheduling requests.

Although Parent "A" historically refused to attend IEP team meetings, Fremont Union made no attempts to schedule such a meeting, and document diligent efforts to secure Parent "A"'s participation, and then hold an IEP team meeting with Fremont Union IEP team members to determine special education eligibility. Fremont Union unilaterally exited Student without any IEP team meeting in violation of the IDEA and case law. Thus, Fremont Union impermissibly exited Student from special education.

Fremont Union maintained that it could send the prior written notice exiting Student without seeking a due process hearing determination. This Decision does not reach, and makes no findings regarding Fremont Union's separate argument that it may unilaterally exit a student from special education through a prior written notice only, as opposed to initiating a due process hearing. That specific legal question is reserved for a separate proceeding, should one be initiated, as it was not necessary to resolve that question in this matter.

EXITING STUDENT FROM SPECIAL EDUCATION CONSTITUTES A CHANGE OF PLACEMENT

Fremont Union argues that exiting Student was merely a change of identification, not a change of placement during the 2024-2025 school year because services continued through the end of the 2024-2025 school year, so no change of placement occurred at that time. This position is misplaced.

In California, "specific educational placement" is defined as "that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs," as specified in the IEP. (Cal. Code Regs., tit. 5, § 3042.) When Fremont Union exited Student from special education eligibility on June 5, 2025, it eliminated all special education services, extinguished procedural protections, and removed Fremont Union's FAPE obligations to Student.

From June 5, 2025, through the first day of the 2025-2026 school year in August 2025, when Fremont Union ceased all special education services for Student, she did not have any procedural or legal protections as a special education eligible student, and Fremont Union unilaterally excused itself of any obligation to provide Student with related services beginning June 5, 2025, which was still during the 2024-2025 school year.

Removal from special education is a change in placement because the action terminates the educational program provided under the last agreed-upon IEP and all legal FAPE obligations for the school district, as well as any legal rights for a special education eligible student. Fremont Union's argument that exit was merely a change of identification ignores that, under IDEA, eligibility and placement are intertwined because the exit automatically ends eligibility, placement, services, and all FAPE protections. Exiting Student from special education eligibility constitutes one of the most significant changes in a student's status that a school district can impose. Because exiting Student completely stripped her of all special education services, removed IDEA procedural protections, and terminated the last agreed-upon IEP, it constituted a change of placement.

THE CHANGE OF PLACEMENT OCCURRED DURING THE 2024-2025 SCHOOL YEAR

The change of placement occurred during the 2024-2025 school year. The IDEA requires the analysis to focus on a school district's decision date, not the implementation date. Here, the prior written notice proposing to exit Student from special education on May 27, 2025, triggered procedural safeguards and allows a party to dispute the proposal as of that date, not later when it goes into effect or services cease. (20 U.S.C. § 1415(c)(1); 34 C.F.R. § 300.503(b)(4) & (5) (2006); Ed. Code, § 56500.4, subd. (b).)

Here, both the exit determination on May 27, 2025, and effective date of June 5, 2025, occurred during the 2024-2025 school year. Because Fremont Union stated services would cease the following school year, and thus was outside the scope of this hearing, is semantics. All of Student's rights and services ended on June 5, 2025. No further services were voluntarily provided to Student after that date. Fremont Union's decision to end services on the first day of the 2025-2026 school year for administrative purposes is of no consequence. Fremont Union unilaterally relieved itself of the obligation to provide a FAPE as of June 5, 2025, and Student effectively lost any entitlement to placement, services, and procedural protections on that date limited only by Parents filing for due process.

Thus, the change of placement occurred during the 2024-2025 school year. Accordingly, Student proved by a preponderance of the evidence that Fremont Union unilaterally changed placement during the 2024-2025 school year.

(This space is intentionally left blank. Text continues on the following page.)

Unilaterally changing Student's placement is a procedural violation. Procedural violations of the IDEA only constitute a denial of FAPE if they: (1) impeded the student's right to a FAPE; (2) significantly impeded the parent's opportunity to participate in the decision-making process; or (3) caused a deprivation of educational benefits. (20 U.S.C. § 1415(f)(3)(E)(ii); Ed. Code, § 56505, subd. (f)(2); see *N.B. v. Hellgate Elementary Sch. Dist., ex rel. Bd. of Directors, Missoula County, Mont.* (9th Cir. 2008) 541 F.3d 1202, 1208, quoting *Amanda J. ex rel. Annette J. v. Clark County Sch. Dist.* (9th Cir. 2001) 267 F.3d 877, 892.)

Here, by unilaterally exiting Student without an IEP team meeting, it impeded Parent "A"'s opportunity to participate in the decision-making process and caused a deprivation of educational benefits because Student no longer had the legal protections of special education eligibility.

CONCLUSIONS AND PREVAILING PARTY

As required by California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided.

ISSUE 1:

Student failed to meet her burden of proving that Fremont Union denied Student a FAPE by providing Parent a legally compliant prior written notice in May 2025.

Fremont Union prevailed on Issue 1.

ISSUE 2:

Student proved that Fremont Union denied Student a FAPE when it unilaterally changed Student's placement by impermissibly exiting Student from special education and related services, effective June 5, 2025.

Student prevailed on Issue 2.

REMEDIES

Fremont Union denied Student a FAPE from June 5, 2025, by impermissibly exiting Student from special education and improperly changing her placement. Student failed to present any evidence regarding remedies. In Student's closing brief, she requested that Student remain special education eligible and that Student should receive compensatory education. Fremont Union argues that Parent's ongoing refusal to cooperate in assessing Student justified its determination to exit Student from special education and no remedies should be awarded.

Under federal and state law, courts have broad equitable powers to remedy the failure of a school district to provide FAPE to a disabled child. (20 U.S.C. § 1415(i)(1)(C)(iii); Ed. Code, § 56505, subd. (g); *see School Committee of the Town of Burlington, Massachusetts v. Dept. of Education* (1985) 471 U.S. 359, 369 [105 S.Ct. 1996, 85 L.Ed.2d 385] (*Burlington*).) This broad equitable authority extends to an administrative law judge who hears and decides a special education administrative due process matter. (*Forest Grove School Dist. v. T.A.* (2009) 557 U.S. 230, 244, fn. 11 [129 S.Ct. 2484, 174 L.Ed.2d 168].)

In remedying a FAPE denial, the student is entitled to relief that is appropriate in light of the purposes of the IDEA. (20 U.S.C. § 1415(i)(2)(C)(iii); 34 C.F.R. § 300.516(c)(3) (2006).) The purpose of the IDEA is to provide students with disabilities a FAPE which emphasizes special education and related services to meet their unique needs. (*Burlington*, *supra*, 471 U.S. at p. 374.) Appropriate relief means relief designed to ensure that the student is appropriately educated within the meaning of the IDEA. (*Student W. v. Puyallup School Dist.* (9th Cir. 1994) 31 F.3d 1489, 1497 (*Puyallup*).)

Since Student was impermissibly exited from special education that changed Student's placement by ceasing all IDEA protections and special education services, Fremont Union is ordered to reinstate Student as special education eligible and commence an IEP team meeting to discuss eligibility.

Although Student requests compensatory education, no persuasive evidence was submitted that Fremont Union failed to deliver Student her IEP services during the time at issue in this matter. Thus, no compensatory education award is made. All other requests by Student were carefully considered and denied.

Parent "A" has previously been uncooperative with Fremont Union in participating in IEP team meetings. Thus, the following order and schedule is set so that the parties may proceed in a timely manner.

ORDER

1. Fremont Union must immediately reinstate Student as eligible for special education as previously categorized.
2. Within five school days of the date of this Decision, Fremont Union will email Parents notices for two different IEP team meeting dates that

are on a school day, during school hours, between January 5, 2026, through January 16, 2026, with one IEP team meeting scheduled each week during this timeframe.

3. All of Fremont Union's IEP team members for Student will make themselves available for both IEP team meeting dates and times without conditions.
4. Parents should make themselves available and attend the first scheduled IEP team meeting without conditions.
5. Should one of Student's Parents not attend either of the IEP team meetings, Fremont Union may hold the last noticed IEP team meeting and discuss eligibility, or anything else that the IEP team needs to discuss regarding Student at that time and without Parents.
6. If one of Student's Parents attends one of the IEP team meetings, then Fremont Union can cancel the later scheduled IEP team meeting.
7. Student's other requests for relief are denied.

RIGHT TO APPEAL THIS DECISION

This is a final administrative decision, and all parties are bound by it. Under Education Code section 56505, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within 90 days of receipt.

CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings