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 2025070664

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

AUGUST 21, 2025

On August 20, 2025, Fremont filed a request to continue the due process hearing with the Office of Administrative Hearings, on the ground that on the dates now set for hearing, both its lead counsel are committed to representing clients in hearings in earlier-filed cases.

Student filed an opposition to the request on August 21, 2025, arguing that at least one of the two attorneys is available to represent Fremont at the scheduled hearing, and that a continuance would cause substantial injury to her education.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint, unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;
- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a reasonable opportunity to prepare for trial regarding the new party's involvement;
- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or
- The case has a significant and unexpected change which makes the case not ready for trial.

Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Fremont has established good cause to continue the hearing. Nothing in the record supports Student's assertion that Fremont will have at least one attorney available to represent it at the hearing as currently scheduled.

Student mischaracterizes Fremont's claim by attributing it merely to "an inability of [counsel] to align their schedules." The sworn declaration of Fremont's counsel establishes more than that. It identifies specific earlier-filed cases involved in the conflict and establishes that both attorneys are committed to representing clients in these earlier-filed cases on September 3, 4, and 5, 2025, the dates for hearing now set in this matter.

OAH's long-standing practice is to require that due process cases filed earlier than the case under consideration must be brought to hearing before later-filed cases. As a result, earlier-filed cases to which counsel are committed are entitled to preference on the calendar.

Student also argues that granting the continuance will cause substantial and irreparable harm to her education. However, that claim is unpersuasive because no declaration under oath supports it, and the claim lacks specifics. For example, Student, a junior in high school, asserts that she will not be able to get into the university of her choice if the continuance is granted. However, that concern is not further described and is entirely speculative.

The request is granted. All previously scheduled dates are vacated, including the prehearing conference now calendared for August 25, 2025.. The new dates are:

PREHEARING CONFERENCE will be held on September 29, 2025, from 10 AM to 12 PM.

DUE PROCESS HEARING will be held on October 7, 8, and 9, 2025.

The prehearing conference, and due process hearing will be held by videoconference or telephone, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will continue day to day, as needed, Mondays and Fridays included, at the discretion of the Administrative Law Judge. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference. Late motions will only be considered if good cause is established for the late filing.

The parties must immediately give potential witnesses the new hearing dates, and must subpoena witnesses, if necessary, so they are available to testify. Failing to properly notify or subpoena a witness is not good cause to delay the hearing.

The parties are encouraged to make another attempt to schedule a mediation.

IT IS SO ORDERED.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings