BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

FREMONT UNION HIGH SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024110291

ORDER GRANTING REQUEST FOR CONTINUANCE AND SETTING HEARING DATES

FEBRUARY 5, 2025

On February 3, 2025, Student filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH, due to Parent's health concerns and desire for more time to obtain legal counsel. On February 4, 2025, Fremont Union High School District opposed the request on the grounds that it is untimely, fails to establish good cause, and would prejudice Fremont Union.

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).)

The request for continuance is granted. Student established good cause based on Parent's health concerns and desire for more time to obtain counsel. Student's prior oral motion to continue this matter, made on January 31, 2025 at the prehearing

conference, was denied without prejudice by the ALJ. Student's instant motion is essentially a renewal of the prior request for more time to obtain legal counsel, with additional information about Parent's health concerns and specific requested dates for continuance. Fremont Union contends that time is of the essence to resolve the dispute over Student's assessment and that it would be prejudiced by a second continuance. However, Fremont Union already sought and received a continuance of this matter, pursuant to the parties' joint request, which caused an extension of the 45-day timeline to resolve this matter. Fremont Union also cites an earlier case filed against Student, but Fremont Union dismissed that matter. Here, given Parent's identified health issues combined with Parent's request to obtain counsel prior to hearing, a second, reasonable continuance is warranted. Student is on notice, however, that no further continuances to obtain legal counsel will be granted nor any additional continuance absent extraordinary good cause.

The request is granted, but not for the length of time requested. Parent did not establish why he would need until April 22, 2025 to obtain counsel. Additionally, Parent has already had additional time to obtain counsel during the first continuance. Accordingly, the new dates are:

DUE PROCESS HEARING will be held on March 25, 26, and 27, 2025.

Note, no additional prehearing conference is scheduled. The prehearing conference in this matter was held on January 31, 2025. The parties are ordered to meet and confer on the items set forth in the February 3, 2025 Order Following Prehearing Conference by 5:00 PM on March 19, 2025.

The 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.

The parties must immediately give potential witnesses the 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.

IT IS SO ORDERED.

Daniel Senter

Daniel Senter
Administrative Law Judge
Office of Administrative Hearings