BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CORONA-NORCO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024050089

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

AUGUST 2, 2024

On July 29, 2024, Corona-Norco filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. On August 1, 2024, Student opposed the request.

Corona-Norco contends the hearing should be continued because its lead counsel is scheduled to represent districts in due process matters filed earlier than this one and entitled to priority on the calendar. Student contends the hearing should not be continued because the time requested is too long and Student will be prejudiced

because the continuance would prevent the Student from "obtaining specific services requests."

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).)

Corona-Norco has established by declaration that its principal counsel is unavailable on the dates currently set for hearing in this matter, and is scheduled until early October to represent districts in several additional due process hearings, all of which are entitled to priority on the calendar over this one. Student offers no reason why he would be prejudiced by the requested continuance except that the Student would be prevented from "obtaining specific services requests" during the period of continuance. The phrase "obtaining specific services requests" is far too vague to establish prejudice by itself, and Student makes no effort to explain what it means or how it would affect him.

This matter has been pending since May 2, 2024. The parties are cautioned that OAH does not anticipate granting any further continuance absent especially strong justification.

The request is granted. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on September 23, 2024, at 10AM.

DUE PROCESS HEARING will be held on October 1, 2, and 3, 2024.

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 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.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings