BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

CORONA-NORCO UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2023030821

ORDER DENYING REQUEST FOR CONTINUANCE AND DENYING REQUEST FOR REVIEW BY PRESIDING JUDGE

OCTOBER 16, 2023

On October 11, 2023, Student filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. OAH has not yet received a response from Corona-Norco. On October 16, 2023, OAH received from Student a supplemental document requesting that the motion to continue be reviewed by a presiding judge.

This matter is currently set for due process hearing on October 17, 18 and 19, 2023. In a lengthy handwritten document, Parent requests that the hearing be continued and makes a variety of factual assertions about inability to attend the hearing as currently scheduled. Parent asserts that she, Student, and Father all have undescribed

medical procedures that cannot be rescheduled, and that "more testifying people" are not available until November.

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).)

Student has not established good cause for a continuance of the hearing. This matter was filed in March and has been continued repeatedly. Any further continuance would require a very substantial showing of need that is not made by Student's moving papers.

Parent's asserts that she, Father, and Student all have conflicting medical appointments that cannot be rescheduled. Those assertions are unduly vague, as they do not set forth any days or times when these appointments require their presence or set forth any further detail. In addition, no documentation supports any of those assertions. In her supplemental document seeking review by a presiding judge, Parent states that her husband had a stroke, is not entirely mentally competent, and therefore she has to stay home to take care of him. This statement is not confirmed by any supporting documents and is inconsistent with Parent's request that the hearing be set for November 7, 2023.

Parent also makes a declaration under oath, but it only states that "parent/witnesses" have undescribed medical procedures that cannot be changed. The witnesses who are allegedly unable to appear at the hearing are not identified.

The only documentation accompanying Student's moving papers are two documents from a Kaiser Permanente physician stating that Student should not attend school during two time ranges, one of which overlaps with the hearing. Student has already filed those documents and has been advised in the Order Following Prehearing

Conference filed on October 9, 2023, that Student's presence at the hearing is not required.

ORDER

1. The request for a continuance is denied. All prehearing conference and due process hearing dates are confirmed and will proceed as calendared.
2. The request for review of the motion by a presiding judge is denied. OAH has no procedure for transferring a pending motion to a presiding judge.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings