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 2022030988

ORDER GRANTING REQUEST FOR RECONSIDERATION AND GRANTING JOINT REQUEST TO RESHEDULE MEDIATION AND CONTINUE DUE PROCESS HEARING

JUNE 23, 2022

On June 17, 2022, the undersigned Administrative Law Judge issued an order denying the parties' joint request for a videoconference mediation and continuance of due process hearing. On June 22, 2022, the parties filed a motion for reconsideration of their joint request for mediation and continuance of the due process hearing.

MOTION FOR RECONSIDERATION

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when

the party seeks reconsideration within a reasonable period of time, generally within ten days. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

The motion offers new facts, circumstances, or law. to support reconsideration. The parties' June 16, 2022, joint request to schedule mediation and continue hearing dates was made using the OAH form designated to be used when parties seek an initial mediation date, which requires a continuance of the hearing to accommodate the mediation. The request was denied because the parties have a June 30, 2022, mediation date, which predated the presently schedule hearing of July 6, and 7, 2022.

The parties intended their June 16, 2022, request to be a motion to reschedule the mediation and continue the hearing because of conflicts with hearings scheduled in other matters and with prepaid vacations. The parties' motion for reconsideration is supported by the declarations of both parties' attorneys and exhibits and establishes the parties' intent to demonstrate good cause for their request.

The parties' motion for reconsideration is granted.

MOTION TO RESCHEDULE MEDIATION AND CONTINUE HEARING

The parties seek to reschedule the mediation for August 5, 2022, and continue the hearing to August 30 to September 1, 2022.

A due process hearing must be conducted, and a decision rendered, within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505,

subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance. (Cal. Rules of Court, rule 3.1332(d).)

Corona-Norco's attorney Summer D. Dalessandro is scheduled to be on vacation from June 30 to July 12, 2022, with non-refundable airline tickets. Corona-Norco's representative similarly has a conflicting scheduled vacation. Student's attorney Timothy A. Adams has hearings in other older, due process matter on the same hearing dates in this matter. Attorney Adams is similarly schedule for hearings in older due process matter through August 25, 2022.

The parties have demonstrated good cause for continuance. In May 2022, the parties obtained a hearing continuance to August 2022. However, because of the Student's amended complaint, Corona-Norco's complaint, and the consolidation of the two matters, the parties now have a hearing scheduled for July 6 and 7, 2022. The July 2022 hearing dates conflict with previously scheduled, prepaid vacations and hearing dates. The parties have collaborated on agreeing to the proposed dates for the rescheduled mediation and continued hearing. The motion to continue is granted.

ORDER

1. The motion for reconsideration is granted.

2. Upon reconsideration, the parties' joint motion to reschedule the mediation and continue the hearing is granted.

3. The matter will be set as follows:

MEDIATION DATE is August 5, 2022, 9:00 AM to 4:30 PM.

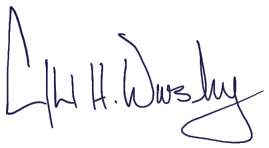
MEDIATION will occur via telephone or videoconference.

PREHEARING CONFERENCE will be held on August 19, 2022, at 3:00 PM.

DUE PROCESS HEARING will be held on August 30 through September 1, 2022.

The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed 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 or with a showing of good cause why it was not timely filed.

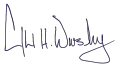
IT IS SO ORDERED.



Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings

Signature: 

Email: Clifford.Woosley@dgs.ca.gov

Title: Administrative

Company: CA Department of General Services (DGS)