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 FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE, AND CONTINIUNG PREHEARING CONFERENCE AND HEARING

AUGUST 25, 2023

On August 25, 2023, Administrative Law Judge Robert G. Martin, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Madisyn Ukrainetz appeared on behalf of Corona-Norco Unified School District, referred to as Corona-Norco. Ukrainetz' associate Jasey Mahon also attended the PHC. Parents appeared on behalf of Student. Arabic interpreter Afnan Alrayes

attended the PHC, and at Parents' request provided interpretation as needed from English to Arabic and Arabic to English.

Corona-Norco filed a prehearing conference statement. Parents on behalf of Student did not file a prehearing conference statement.

The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

ORDER GRANTING MOTION TO CONTINUE PREHEARING CONFERENCE AND DUE PROCESS HEARING

On April 11, 2023, OAH granted Corona-Norco's motion to continue the PHC and hearing in this matter to allow the parties time to conduct settlement negotiations. Parents joined in the motion to continue, indicating a continuance would also give Parents time to find and hire an attorney to represent Student. At the August 25, 2023 PHC in this matter, Parents requested a second continuance. They explained that their attempts to find and hire an attorney during the time allowed by the first continuance were set back by another legal proceeding and a medical emergency affecting Father.

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; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

Parents showed good cause to grant a short second continuance of the due process hearing to allow them time to obtain an attorney to represent Student. The request for continuance is therefore granted. OAH does not anticipate granting further continuances for the purpose of obtaining legal representation for Student. This does not prohibit a new attorney from filing a continuance request.

All previously scheduled dates are vacated. The parties may request a mediation. The case shall proceed as follows:

PREHEARING CONFERENCE will be held on September 22, 2023, at 1:00 PM.

The prehearing conference will be conducted via telephone or videoconference. All other prehearing matters shall be addressed at the September 22, 2023, PHC. All prehearing motions must be filed three business days before the PHC.

DUE PROCESS HEARING will be held October 3, 4 and 5, 2023.

The hearing will be conducted via telephone or videoconference and shall begin at 9:30 AM and end at 3:30 PM on all days, unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses, if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed.

SETTLEMENT

The parties shall immediately inform OAH in writing if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. If the parties reach a settlement within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880.

If a full and final written settlement agreement is reached after 5:00 PM the day before the hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH at https://www.applications.dgs.ca.gov/oah/oahsftweb.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

Failure to comply with this order may result in the exclusion of evidence or other sanctions.

IT IS SO ORDERED.



Robert G. Martin
Administrative Law Judge
Office of Administrative Hearings