BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CORONA-NORCO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024050089

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

JUNE 11, 2024

On June 5, 2024, Corona-Norco Unified School District filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. Student did not file a response.

Corona-Norco contends the hearing should be continued because on overlapping and distinct dates, Corona-Norco's attorney, and Corona-Norco's administrator who is its representative at due process hearings will be on pre-planned vacations on the dates currently scheduled for the due process hearing. Corona-Norco requested the due process hearing start on October 15, 2024, to accommodate

Corona-Norco's summer break during which staff are not expecting to work and accommodate other mediation and due process hearing dates that have been scheduled in other matters thereafter. Student informed Corona-Norco she did not agree to any continuance.

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 established good cause for a continuance of the due process hearing dates due to its attorney and its representative having significant travel plans during the currently scheduled dates and shortly thereafter. However, Corona-Norco did not establish good cause to continue this hearing until October 15, 2024. The Individuals with Disabilities Education Act does not excuse due process hearings during a school's summer break, and Corona-Norco did not provide evidence the specific witnesses it requires will not be available to testify during specific dates on which this hearing might be held. Further, the fact that other matters have been scheduled for the same dates two, three, and four months out does not amount to Corona-Norco's attorney or representative being unavailable. At this time, the matter will only be continued long enough to afford Corona-Norco's attorney the opportunity to complete her scheduled travel and prepare for the prehearing conference and due process hearing.

The request is granted, but not for the length of time requested. All previously scheduled dates are vacated. The new dates are:

PREHEARING CONFERENCE will be held on August 5, 2024, at 3:00 PM.

DUE PROCESS HEARING will be held on August 13, 14, and 15, 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.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings