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

SEPTEMBER 22, 2023

On September 14, 2023, Corona-Norco filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH., which is now scheduled to begin on October 3, 2023. Student did not file a response.

Corona-Norco seeks a two-week continuance of the due process hearing on the ground that Dawn Rust, Director of their Special Education Local Plan Area, is committed to attending a SELPA meeting in Sacramento at the same time as the scheduled hearing. Corona-Norco asserts that Ms. Rust is the intended District representative at the hearing, is intimately familiar with student's program and this dispute, and that if

Corona-Norco were forced to proceed to hearing as scheduled, it would not have a representative at the hearing who is familiar with Student's educational file, educational program, or the relevant procedural history in the case. Corona-Norco also shows in a declaration that the current hearing date was set at a prehearing conference on the oral motion of Student, without warning, making it impossible for the District to check Ms. Rust's schedule before the request for continuance was granted.

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 good cause for the requested brief continuance. However, this matter has been continued repeatedly, largely on the ground that Parent, who is appearing as a self-represented litigant, wanted time to obtain an attorney. Whether she has done so is unknown. Parent has now had ample time to obtain an attorney. No further continuance of the hearing will be granted without a showing of a compelling need not now anticipated.

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

PREHEARING CONFERENCE will be held on October 9, 2023, at 3:00 p.m.

DUE PROCESS HEARING will be held on October 17, 18 and 19, 2023.

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