BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

MURRIETA VALLEY UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2025051034

OAH CASE NUMBER 2025050648

ORDER DENYING STUDENT'S MOTION FOR CONTEMPT

AUGUST 7, 2025

On July 18, 2025, the prehearing conference, called PHC, was held in the consolidated cases. Parent, a self-represented party, on behalf of Student made an oral motion to have the ALJ hold Murrieta Valley's attorney, Cynthia Vargas, in contempt of court. The ALJ ordered Parent, if Parent intended to pursue a motion for contempt, to prepare a written motion and file it with OAH.

On July 21, 2025, Parent filed a Motion to hold attorney Vargas in contempt of court. On July 22, 2025, Parent filed a second Motion to hold attorney Vargas in contempt of court. There was no explanation by Parent for the multiple filings. The only apparent difference between the two filings was a one paragraph citation to Rules

of Professional Conduct, Chapter 1, Rule 1, regarding a failure to perform legal services with competence as the second full paragraph on page 2 of the second filing.

In the Motions for Sanctions, Parent alleges 5 bases for sanctions against attorney Vargas.

1. Unnecessary motions to disadvantage Parent;
2. Misrepresentation of the facts in writing;
3. In-person deceits;
4. Unreasonable expectations; and
5. The mislabeling of laws and numerous clerical errors.

On July 23, 2025, Murrieta Valley filed an Opposition to Parent's Motion for Contempt. On July 24, 2025, Murrieta Valley filed an Amended Opposition to Parent's Motion for Contempt. There does not appear to be any substantive difference between Murrieta Valley's two Opposition filings. Murrieta Valley rejects Parents allegations and asserts that attorney Vargas did not engage in any conduct that would give rise to a Motion for Contempt.

APPLICABLE LAW

Provisions for contempt sanctions, order to show cause, and expenses contained in Government Code sections 11455.10, 11455.20 and 11455.30 of the Administrative Procedures Act apply to special education due procedures except as modified by subdivisions (b) through (e) of California Code of Regulations, title 5, section 3088. (Cal. Code. Regs., tit. 5, § 3088, subd. (a).) With approval from the California Department of Education, the presiding officer or agency head may certify the facts that justify the contempt sanction against a person to the superior court in and for the county where the proceeding is conducted. (Gov. Code § 11455.20; Cal. Code. Regs., tit. 5, § 3088,

subd. (c).) A person is subject to the contempt sanction for, among other things, disobedience of or resistance to a lawful order, unlawful interference with the process or proceedings of the agency, and failure or refusal without substantial justification to comply with and order of the presiding officer. (Gov. Code § 11455.10.)

In certain circumstances, an administrative law judge, known as the ALJ, presiding over a special education proceeding is authorized to shift expenses from one party to another, or to the Office of Administrative Hearings. (Gov. Code, §§ 11405.80, 11455.30; Cal. Code. Regs., tit. 5, § 3088; see *Wyner ex rel. Wyner v. Manhattan Beach Unified School Dist.* (9th Cir. 2000) 223 F.3d 1026, 1029 ["Clearly, [California Code of Regulations] § 3088 allows a hearing officer to control the proceedings, similar to a trial judge."].) Only the ALJ presiding at the hearing may place expenses at issue. (Cal. Code. Regs., tit. 5, § 3088, subd. (b).)

Expenses may be ordered to be reimbursed either to OAH or to another party. With approval from the General Counsel of the California Department of Education, the ALJ presiding over the hearing may "order a party, the party's attorney or other authorized representative, or both, to pay reasonable expenses, including costs of personnel" to OAH (as the entity that is responsible for conducting due process hearings) as a result of bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay." (Cal. Code. Regs., tit. 5, § 3088, subds. (a) & €; see Gov. Code, § 11455.30, subd. (a).)

An ALJ presiding over a hearing may, without first obtaining approval from the California Department of Education, "order a party, the party's attorney or other authorized representative, or both, to pay reasonable expenses, including attorney's fees, incurred by another party as a result of bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay." (Gov. Code, § 11455.30, subd. (a); Cal.

Code. Regs., tit. 5, § 3088, subd. (a).) An order to pay expenses is enforceable in the same manner as a money judgment or by seeking a contempt of court order. (Gov. Code, § 11455.30, subd. (b).)

"Actions or tactics" is defined as including, but not limited to, making or opposing motions or filing and serving a complaint. (Gov. Code, §11455.30, subd. (a); Code Civ. Proc., § 128.5, subd. (b)(1).) Filing a complaint without serving it on the other party is not within the definition of "actions or tactics." (*Ibid.*) "Frivolous" means totally and completely without merit or for the sole purpose of harassing an opposing party. (Gov. Code, § 11455.30, subd. (a); Code Civ. Proc., § 128.5, subd. (b)(2).) A finding of "bad faith" does not require a determination of evil motive, and subjective bad faith may be inferred. (*West Coast Development v. Reed* (1992) 2 Cal.App.4th 693, 702.)

DISCUSSION

Here, Parent complained at length regarding the actions, statements, and filings of Murrieta Valley's attorney. Parent alleged that Murrieta Valley's Motion to Consolidate was unnecessary and filed with improper intent to unduly burden them. However, not only was there a legitimate purpose behind the Motion to Consolidate, OAH accepted Murrieta Valley's rationale and granted the motion.

Parent thereafter filed a Motion for Reconsideration of the order granting Consolidation. The Motion for Reconsideration was denied. In sum, Parent has extensively litigated the issue of consolidation, and their arguments were without merit. As such, there is no basis offered by Parent to find attorney Vargas in contempt for filing a meritorious motion to consolidate.

Parent alleges that attorney Vargas' representations regarding the availability of witness and Murrieta Valley's representative Steve Gooch, including Murrieta Valley's

motion to go dark on July 29, 2025, were deceitful and undertaken in bad faith. However, Parent misconstrues attorney Vargas' representations in an attempt to find bad faith in the confusion regarding Gooch's availability to represent Murrieta Valley and appear as a witness on July 29, 2025.

Attorney Vargas mistakenly assumed that Gooch would be available, if needed, to testify on July 29, 2025 in the event Murrieta Valley was to present its case first. However, attorney Vargas later learned that Gooch would not be able to testify remotely as Gooch would be traveling back to the United States on July 29, 2025 and thus unavailable to testify remotely. In sum, although attorney Vargas may have made an unwise assumption regarding Gooch's availability, nothing in the record offered by Parent supports the conclusion that such was done in bad faith or rises to the level that would warrant a finding of contempt.

Parent argues that attorney Vargas has sought to hold Parent, as a self-represented party, to an unreasonable standard of practice in this case. Parent alleges that Murrieta Valley's objection to the clarification of issues at the prehearing conference was done in bad faith and predicated on an unreasonable standard for a non-attorney, and more broadly that a self-represented party should not be held to the same standard as attorneys.

Murrieta Valley's objection to the proposed issue, during the prehearing conference, served two purposes. First, to challenge the ALJ's decision to look to the four corners of Parent's complaint to ascertain the intended issue when the issue was not clearly stated in the complaint. Second, the objection was to preserve the record for appeal. Neither of these purposes is other than good practice by an attorney representing their client. There is no credible basis offered by Parent to conclude that

the objection was made seeking to hold Parent to an unreasonable standard, made in bad faith, or that such an objection could form the basis for a contempt finding.

More broadly, a party to a lawsuit, whether before OAH or any other judicial body, cannot escape the reality that the legal system can be complex and difficult to navigate for non-attorneys. During prehearing conferences and hearings, Administrative Law Judges may explain the process more extensively for the parties, where self-represented parties appear. OAH seeks to ensure due process that is understandable, efficient, and fair in substance and procedure for all parties. In part, this serves as a basis for OAH providing Parents with a list of low-cost or non-profit options to obtain counsel for their due process hearings. (AccessList of Low-Cost or Free Attorneys and Advocates for Special Education; see also, Self-Help Information for Special Education Cases.)

Finally, Parent complains that Murrieta Valley's pleadings and motions have mislabeled laws and contain clerical errors. While such mistakes are obviously not best practice, they fail to rise to a level necessary to support a finding of bad faith or contempt.

ORDER

1. Student's motion for a contempt finding against attorney Vargas is denied.

IT IS SO ORDERED.

Ted Mann

Ted Mann
Administrative Law Judge
Office of Administrative Hearings