BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LAMMERSVILLE ELEMENTARY SCHOOL DISTRICT.	OAH Case No. 2018050981 ORDER DENYING CROSS-MOTIONS FOR SANCTIONS

On May 21, 2018, Student filed a Request for Due Process hearing (complaint). On May 30, 2018, District filed a Motion to Dismiss the complaint. On June 4, 2018, Student opposed the Motion to Dismiss. On June 6, 2018, District filed a reply to the opposition, and also filed an untimely Notice of Insufficiency as to the complaint.

On June 7, 2018, Student objected to District's having filed a reply regarding the Motion to Dismiss. On June 7, 2018, Student also opposed the NOI, and requested sanctions arguing that District's filings were frivolous.

On June 8, 2018, Student filed a different version of its objection to District's reply brief and its opposition to the NOI. On June 8, 2018, Student also filed a different version of its motion for sanctions against District. On June 8, 2018, District opposed, and filed its own motion for sanctions against Student.

On June 11, 2018, OAH denied District's NOI .

On June 12, 2018, OAH granted District's Motion to Dismiss and issued an order of dismissal of Student's entire complaint, as stating claims that were outside OAH jurisdiction.

On June 12, 2018, Student opposed District's request for sanctions.

As discussed below, both parties' requests for sanctions are denied.

APPLICABLE LAW AND DISCUSSION

An Administrative Law Judge is authorized to issue sanctions to shift the expenses to a party acting in bad faith, or using tactics that are frivolous or solely intended to cause unnecessary delay to the other party and/or their attorneys. (Cal. Code Regs., tit. 5, § 3088, incorporating Gov. Code, § 11455.30.)

Both sides want sanctions because each claims they had to prepare unnecessary filings. Student's requests for sanctions argue that: (1) District's reply to Student's opposition to District Motion to Dismiss was an unauthorized filing, and (2) District's NOI was untimely. District's request for sanctions argues that: (1) the complaint was outside OAH jurisdiction, necessitating legal fees in filing the Motion to Dismiss; and (2) Student's requests for sanctions were themselves sanctionable.

Here, the sole remaining dispute in this action, which has now been dismissed, is the parties' cross-motions for sanctions. Neither party has established bad faith, or tactics that are frivolous or solely intended to cause unnecessary delay. At worst, the filings at issue were unnecessarily litigious, but there is no evidence of bad faith tactics or intent. Accordingly, both motions are denied.

ORDER

The requests for sanctions filed by District and Student are denied.

IT IS SO ORDERED.

DATE: June 12, 2018

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June Lehrman
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JUNE LEHRMAN
Administrative Law Judge
Office of Administrative Hearings