BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

AMADOR COUNTY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025051101

ORDER GRANTING REQUEST TO KEEP CASE OPEN PENDING ORDER REGARDING SANCTIONS; DENYING MOTION FOR SANCTIONS; DISMISSING CASE

AUGUST 26, 2025

On May 28, 2025, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Amador County Unified School District, called Amador. On July 7, 2025, OAH held a prehearing conference, called PHC, by videoconference for this matter.

Attorney Ryan Song appeared on behalf of Student. Attorneys John Louis Chiappe and Aimee Perry appeared on behalf of Amador. During the PHC, OAH granted Amador's request for a continuance.

On August 21, 2025, Amador filed a request for sanctions against Student's attorneys. Amador alleges that Student's attorneys acted in bad faith by filing the complaint, failed to represent Student's actual interests, failed to respond to Parent's inquiries regarding the case, and failed to assist Parent in dismissing the case. On August 25, 2025, Student withdrew the matter and filed an opposition to the motion for sanctions. On the same day, Amador filed a request to keep the case open until OAH issued an Order regarding its motion for sanctions. Amador's request to keep the matter open pending this Order is granted.

In certain circumstances, an Administrative Law Judge, called 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.)

Here, Amador failed to show that Student's attorneys' conduct of filing the complaint was a frivolous or wrongful act by itself. A trier of fact has not decided or received evidence regarding the merits of the complaint and it is therefore premature to determine if the complaint was meritless or a wrongful action or tactic to prolong litigation, as asserted by Amador. As to Amador's claims that Student's attorneys failed to properly communicate with Parent or mispresented Student's interests, only Student or Parent has standing for these issues, not Amador.

Consequently, Amador's motion for sanctions is denied. (Cal. Code Regs., tit. 5, § 3088, subd. (b).)

ORDER

1. Amador's motion to keep the matter open pending this Order is granted.
2. Amador's motion for sanctions is denied.
3. This matter is dismissed. All hearing dates are vacated.

Paul Kamoroff

Paul H Kamoroff

Administrative Law Judge

Office of Administrative Hearings