BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ADELANTO ELEMENTARY SCHOOL DISTRICT, DESERT MOUNTAIN SPECIAL EDUCATION LOCAL PLAN AREA, AND DESERT MOUNTAIN CHILDREN'S CENTER.

OAH CASE NUMBER 2025060065

ORDER DENYING REQUEST TO RESET RESOLUTION PERIOD, DENYING MOTION FOR SANCTIONS, AND DENYING MOTION TO STRIKE AS MOOT

OCTOBER 17, 2025

On June 2, 2025, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Adelanto Elementary School District. The Office of Administrative Hearings is referred to as OAH.

On August 5, 2025, OAH granted Student's motion to amend and deemed filed Student's first amended complaint. Student's first amended complaint added Desert

Mountain Special Education Local Plan Area, called SELPA, and Desert Mountain Children's Center as respondents.

On August 22, 2025, OAH issued an order determining Student's due process complaint was partially sufficient, following a notice of insufficiency filed by Adelanto, Desert Mountain SELPA, and Desert Mountain Children's Center. That order provided Student with 14 days to file an amended complaint, otherwise, the matter would proceed only on the issues deemed sufficient.

Student is represented by Parent, who requires documents translated into Spanish. OAH provided Parent with the August 22, 2025 order in Spanish on September 2, 2025. Student's deadline to file an amended complaint pursuant to that order was likewise extended to September 16, 2025. OAH issued an order reflecting this extension, on September 9, 2025.

On September 15, 2025, OAH convened a prehearing conference, called a PHC. Student had not filed an amended complaint prior to the PHC. During the PHC, Parent indicated her intent to file an amended complaint and requested another 48 hours to file the amended complaint. OAH granted the request.

Student filed a second amended complaint on September 18, 2025.

On October 8, 2025 at 5:43 PM, Student filed a document entitled "Parent's Notice of Procedural Violations and Request for Sanctions for Failure to Hold Timely Resolution Meeting and Misrepresentation of Timelines." Because Student filed this document after hours, it was deemed filed on October 9, 2025.

In this "notice," Student asserts that Adelanto, Desert Mountain SELPA, and Desert Mountain Children's Center, also called the Respondents, failed to timely

convene the required resolution session pursuant to title 20 United States Code, section 1415(f)(1)(B), failed to timely respond to Student's second amended complaint, improperly sent documents to Parents regarding the due process proceeding by U.S. mail, rather than by email, and acted in bad faith by misrepresenting dates in documents related to the Respondent's response to Student's second amended complaint and scheduling of a resolution session. Student requested OAH make various findings, "reset or toll the 30-day resolution period," as well as issue unspecified "formal sanctions" against the Respondents and strike unspecified documents filed by the Respondents.

Student attached to this filing an unauthenticated copy of a document purporting to be a letter, dated October 2, 2025, that reflected an offer to schedule a resolution session.

Student also attached a reply brief regarding an earlier filed motion. Student included this reply with the same proof of service as the notice described above. Student is again reminded that motion practice before OAH for special education due process proceedings generally does not involve reply briefing. Accordingly, reply briefing may be considered at the discretion of the administrative law judge ruling on that motion. Moreover, the parties must file each document, such as a motion or response to a motion, separately and with a separate proof of service for each document. Failing to do so may result in the document being disregarded by OAH.

On October 10, 2025, Student filed another document entitled "Parent's Motion and Formal Declaration Regarding Bad Faith and Procedural Noncompliance by District, DMSELPA, and DMCC." Here, Student did not file a motion with a separate declaration, but filed a single document made under the penalty of perjury. This document includes

a significant amount of argument which is generally not appropriate for a declaration. However, the undersigned can interpret the document as necessary.

In this document, Student again alleges that the Respondents failed to timely respond to Student's second amended complaint, failed to timely convene the required resolution session pursuant to title 20 United States Code, section 1415(f)(1)(B), demonstrated a "lack of transparency and cooperation," and failed to "accommodate serious family circumstances." Student asserts that the Respondent's alleged actions have resulted in Parent's "total loss of trust." Student requests OAH make various findings that the Respondents acted in bad faith, failed to timely respond to Student's second amended complaint, failed to timely convene a resolution session, and that OAH "suspend the resolution meeting without prejudice to Parent…"

Student's October 9, and 10, 2025 filings are not entirely clear, and are at times internally inconsistent. For example, the documents include multiple sections requesting relief, which are duplicative, or nearly duplicative, such that it's not entirely clear what Student is requesting.

Additionally, the October 10, 2025 filing addresses the concerns and requested relief included in the October 9, 2025 filing. Accordingly, OAH interprets the October 10, 2025 filing as replacing the October 9, 2025 filing.

On October 13, 2025, the Respondents filed an opposition to Student's October 9, and 10, 2025 filings. Recognizing that the two filings overlapped, the Respondents filed a single opposition addressing both of Student's filings. The Respondents argue that they have not acted in bad faith. Rather, the Respondents assert that, less than a week after Student filed his second amended complaint, they offered to utilize the mediation process rather than convene a resolution session, as

authorized under special education law. (20 U.S.C. § 1415(f)(1)(B)(i); 34 C.F.R. § 300.510(a)(3)(ii). Respondents also assert that Parent did not immediately respond to the offer to mediate. Respondents lastly argue that the purpose of the resolution session is for Parent to further explain the complaint to the Respondents, and to provide the Respondents an opportunity to resolve the dispute. (34 C.F.R. § 300.510(a)(2).)

On October 14, 2025, Student filed a reply to the Respondent's opposition. As explained previously, such reply briefing is not generally part of OAH motion practice. Nevertheless, the undersigned considered this filing here.

In his response, Student retreads much of the same ground covered in the October 9, and 10, 2025 filings, albeit escalating the language used to convey the same points. Student also asserts that counsel for Respondents breached her duty of candor to OAH in violation of the applicable rules of conduct governing attorneys in California.

Student is on notice that any additional requests for relief Student raised in his reply filing are not properly before OAH and are not considered through this Order. Student would need to file a separate motion seeking that relief and the Respondents would have an opportunity to respond to that motion.

STUDENT HAS NOT ESTABLISHED THAT THE RESOLUTION PERIOD SHOULD BE RESET

Student requests that OAH "reset" the resolution period in light of the Respondent's failure to timely hold the resolution session. (See 34 C.F.R. § 300.510(b).) However, Student provides no legal authority to support this request.

Rather, in cases where a local educational agency fails to timely hold the resolution session, Student's recourse is to ask OAH to end the resolution period early

and begin the due process hearing timeline. (34 C.F.R. § 300.510(b)(5).) The law provides for a delay in the resolution period and due process hearing when a parent who files a due process complaint fails to participate in the resolution session, not the local educational agency. (34 C.F.R. § 300.510(b)(3).) Moreover, under specific circumstances, a local educational agency may move to dismiss a student's complaint if the parent refuses to participate in the resolution session. (34 C.F.R. § 300.510(b)(4).) Therefore, there is no legal basis for OAH to grant Student's request. Accordingly, Student's request to reset the resolution period is denied.

However, OAH already granted Student's request to continue the due process hearing on October 16, 2025. The due process hearing in this matter is currently scheduled to begin on December 9, 2025. Therefore, the parties have additional time to schedule the required resolution session, or request a mediation. Additionally, this Order does not prevent any party from subsequently requesting OAH's intervention due to any failure to offer or participate in the resolution session. (34 C.F.R. § 300.510(b)(3)-(5).)

STUDENT HAS NOT ESTABLISHED RESPONDENTS ENGAGED IN CONDUCT REQUIRING SANCTIONS

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) & (e); 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, Student failed to establish that the Respondents or their counsel have engaged in any bad faith conduct requiring sanctions. The undersigned has carefully

considered each of Student's arguments and has rejected them. Student has significant subjective opinions about actions undertaken by the Respondents and their counsel. However, those actions, viewed objectively, do not justify sanctions.

Moreover, only the ALJ who is presiding over the matter may place expenses at issue. (Cal. Code Regs., tit. 5, § 3088, subd. (b).) The ALJ declines to do so as such sanctions are not necessary to ensure an orderly and fair hearing. Accordingly, Student's request for sanctions is denied.

STUDENT'S DUPLICATIVE REQUEST TO STRIKE THE RESPONDENT'S RESPONSE TO STUDENT'S SECOND AMENDED COMPLAINT IS DENIED AS MOOT

Student initially filed a motion to strike the Respondent's response to his second amended complaint on October 3, 2025. Prior to OAH ruling on that motion, Student filed the instant documents on October 9, and 10, 2025.

OAH denied Student's motion to strike through a written order dated October 15, 2025. Accordingly, because OAH has already ruled Student's motion to strike, Student's current requests to strike Respondent's response to his second amended complaint are denied as moot.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi
Administrative Law Judge
Office of Administrative Hearings