BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ORCUTT UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2023010165

ORDER DENYING MOTION FOR SANCTIONS AND DENYING STUDENT'S MOTION FOR EXTENSTION OF TIME TO FILE A RESPONSE

MAY 23, 2023

On April 26, 2023, the Office of Administrative Hearings, called OAH, dismissed this case with prejudice. On May 18, 2023, Orcutt Union School District filed a Motion for Sanctions seeking to shift its litigation costs to Parent and Student's attorney. Orcutt alleged Parent's and Student's attorney's actions during the due process hearing were in bad faith and caused Orcutt to waste valuable resources litigating a frivolous case.

On May 22, 2023, Student's attorney filed a Motion for Extension of Time to file a response to Orcutt's motion. Student's attorney requested a two-week extension. Also,

on May 22, 2023, Orcutt filed an opposition to Student's attorney's extension request. Student has not filed a response to Orcutt's Motion for Sanctions.

This Order addresses both the Motion for Sanctions and Student's Motion for Extension of Time to file a response to Orcutt's motion.

OAH LACKS JURISDICTION TO AWARD 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 OAH. (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."].)

An ALJ presiding over a hearing may, 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 because 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).)

However, once OAH dismisses a case, it no longer has jurisdiction to make rulings in that case, including granting an award of sanctions or fee shifting. There are limited circumstances where OAH explicitly retains jurisdiction of a case to rule on pending or anticipated motions, but that did not happen in this case. OAH's April 26, 2023 Order of Dismissal with Prejudice, did not indicate OAH would retain jurisdiction of the case so that Orcutt could file a Motion for Sanctions. Further, Orcutt's motion did not cite any

legal authority allowing OAH to retain jurisdiction over this case after dismissal. Accordingly, Orcutt's Motion for Sanctions is denied because OAH does not have jurisdiction to rule on the motion.

STUDENT'S MOTION FOR AN EXTENSION IS MOOT

Given OAH's ruling, it is no longer necessary for Student to file a response to Orcutt's Motion for Sanctions. Accordingly, Student's Motion for Extension of Time to file a response to Orcutt's motion is denied as moot.

ORDER

1. Orcutt Union School District's Motion for Sanctions is denied.
2. Student's Motion for Extension of Time to File a Response to Orcutt's Motion for Sanctions is denied.

Tara Doss

Tara Doss

Presiding Administrative Law Judge

Office of Administrative Hearings