BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MILL VALLEY SCHOOL DISTRICT.

OAH CASE NUMBER 2025040955

ORDER DENYING SANCTIONS

MAY 28, 2025

On April 21, 2025, Parents, on behalf of Student, filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Mill Valley School District as respondent. On May 5, 2025, Student filed two separate motions seeking sanctions against Mill Valley. The first sought sanctions for "knowingly filing a false and misleading Notice of Insufficiency (NOI) and for failing to meet their obligations of candor, due diligence, and professional ethics before a tribunal." The second sought sanctions for engaging in "a consistent pattern of bad faith litigation conduct, procedural avoidance, and tactics designed to obstruct, delay, and harass Parent, who is self-represented…" On May 7, 2025, Mill Valley filed its opposition to the requested sanctions. On May 14, 2025, OAH granted Student's request to file an amended complaint.

In certain circumstances, a Special Education Division administrative law judge, known as an ALJ, is authorized to shift expenses from one party to another. (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 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 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).) "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.) However, the imposition of sanctions does require a showing that the actions were meritless or frivolous and that the action was pursued in bad faith. (*Campbell v. Cal Gard Sur. Services, Inc*. (1998) 62 Cal. App. 4th 563, 574.)

KNOWINGLY FILING A FALSE AND MISLEADING NOTICE OF INSUFFICIENCY AND FOR FAILING TO MEET THEIR OBLIGATIONS OF CANDOR, DUE DILIGENCE, AND PROFESSIONAL ETHICS BEFORE A TRIBUNAL.

Student's first motion asserts that Mill Valley knowingly misrepresented that Student failed to serve the 32-page statement of facts that was part of Student's original request for due process hearing. Other than the conclusory allegation, Student offers no evidence that Mill Valley's failure to acknowledge the 32-page complaint attachment was a knowing effort to distort the facts. Student offers no proof that Mill Valley's Notice of Insufficiency was an intentional effort to mislead this tribunal or that the failure to transmit the attachment was, in fact, anything more than the oversight that Mill Valley contends it was in their opposition to this sanction motion.

Sanctions are an extraordinary remedy and require more than a bare allegation of wrongful acts. Evidence of bad faith must be offered, for it to be found, even if the moving party is asking that bad faith be inferred.

ENGAGING IN A CONSISTENT PATTERN OF BAD FAITH LITIGATION CONDUCT, PROCEDURAL AVOIDANCE, AND TACTICS DESIGNED TO OBSTRUCT, DELAY, AND HARASS PARENT, WHO IS SELF-REPRESENTED

Similarly, Student has failed to offer proof of the allegations that Mill Valley engaged in bad faith litigation conduct. Student alleges conduct demonstrating a disagreement over resolution session preconditions, and disagreements over issues that form the basis of the complaints in this action. But, again, allegations without evidence do not meet Student's burden of proof that sanctions are warranted. The fact that the

parties disagree about what happened does not constitute bad faith. They are the basis for the due process hearing request in this case.

Sanctions are a remedy rarely awarded. They are intended to punish conduct causing prejudice or attempting to thwart the due process rights of others. Student has failed to prove that Mill Valley's actions, or omissions, were meritless, or frivolous; or that the actions were pursued in bad faith. (*Campbell v. Cal Gard Sur. Services, Inc.*, *supra*, at p. 574.) Student's requests for sanctions are denied.

IT IS SO ORDERED

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings