BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PALO ALTO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025070906

ORDER DENYING REQUEST FOR SANCTIONS

NOVEMBER 25, 2025

On July 24, 2025, Student filed with the Office of Administrative hearings, called OAH, a Request for Due Process, referred to as the complaint, naming Palo Alto Unified School District. The hearing is currently scheduled to begin on December 2, 2025.

On November 12, 2025, District filed a motion to dismiss Issues 2, 3 and 4 of the complaint, or in the alternative, to limit the scope of the hearing. District argues that Issue 2 (alleging predetermination of the May 30, 2025 individualized education program, called IEP) and Issue 3 (alleging the failure to offer an appropriate May 30, 2025 IEP) do not present actionable claims because Student has remained privately placed and Parents have not requested enrollment in District's public program for the 2025-2026 school year.

On November 17, 2025, Student filed a motion for sanctions pursuant to California Code of Civil Procedure section 128.7. Student argues that District's motion to dismiss as to Issues 2 and 3 is frivolous because it improperly asks for the equivalent of a summary judgment and there is no legal basis for dismissal of Issues 2 and 3. Student argues that the ALJ may order a party to pay reasonable expenses, including attorney's fees, incurred by another party because of bad faith actions that are frivolous or solely intended to cause unnecessary delay, citing California Code of Regulations, title 1, section 1040, subdivision (a). Student seeks monetary sanctions in the sum of $864.00 for reviewing District's motion and responding to it.

On November 17, 2025, Administrative Law Judge Laurie Gorsline, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The prehearing conference is called a PHC.

During the November 17, 2025 PHC, District's motion to dismiss was argued. The ALJ denied District's motion in its entirety on the record and issued a written order. The ALJ granted District's request that it have until November 19, 2025, to file a response to Student's motion for sanctions.

On November 17, 2025, Student filed a declaration in support of the motion for sanctions, explaining the reason for filing the motion for sanctions less than three days before the November 17, 2025 PHC.

On November 19, 2025, Palo Alto filed opposition to the sanctions request. Among other things, District argues that sanctions should be denied because Student failed to comply with California Code of Civil Procedure section 128.7. It also argues there is also no adequate declaration containing facts to support the request for sanctions. District argues that legal disagreement is not a basis for sanctions.

APPLICABLE LAW

In certain circumstances, 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).)

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 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).) The ALJ shall determine the reasonable expenses based upon the testimony under oath or a declaration setting forth the specific expenses incurred as a result of the bad faith conduct. (Cal. Code. Regs., tit. 1, § 1040.)

"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.)

DISCUSSION

Student's request for monetary sanctions is denied. Student's motion is based on California Code of Civil Procedure section 128.7 and California Code of Regulations, title 1, section 1040. First, Student has failed to establish that California Code of Civil Procedure section 128.7 applies in special education proceedings. Second, even assuming it applied in special education cases, Student failed to comply with its two-step procedure. Third, Student has failed to support the sanctions motion with any adequate declaration specified by California Code of Regulations, title 1, section 1040, which required Student to set forth the specific expenses incurred as a result of the bad faith conduct. The declaration merely explained why the motion was not filed three days before the PHC.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings