

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

SEQUOIA CAREER ACADEMY.
OAH CASE NUMBER 2026020346

ORDER DENYING MOTION TO SHIFT COSTS AND AWARD
SANCTIONS AGAINST PARENT

JULY 27, 2026

On February 3, 2026, Parent on behalf of Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Sequoia Career Academy, called Sequoia and Mendocino County Special Education Local Plan Area, called Mendocino County SELPA. On May 12, 2026, OAH issued an Order Following Prehearing Conference for Hearing by Videoconference; Order Dismissing Mendocino County SELPA, and Order Denying Sequoia's Motion to Dismiss Based on Res Judicata and Collateral Estoppel.

OAH conducted a due process hearing on May 19, 20, 21, 26, 27, and June 2, 8, and 10, 2026. On June 10, 2026, Student filed a request to dismiss the case. Student's

dismissal was filed before the due process hearing was completed and before Sequoia had an opportunity to present its defense.

On June 11, 2026, OAH issued an Order Dismissing Case with Prejudice and Order Retaining Limited Jurisdiction to Rule on a Motion to Shift Expenses.

On July 14, 2026, Sequoia filed a Motion to Shift Costs and Award Sanctions. Sequoia's motion was supported by declarations by its attorneys of record. Sequoia argues that Parent engaged in frivolous and bad faith actions by:

- failing to meet and confer with Sequoia in violation of OAH's Order Following Prehearing Conference dated May 12, 2026;
- unnecessarily attacking the qualifications and truthfulness of Sequoia's Co-Executive Director;
- failing to answer questions about past crimes of moral turpitude;
- filing three documents with OAH without serving them on Sequoia; and
- failing to appear at the due process hearing on June 10, and 11, 2026.

On July 14, 2026, Parent filed an Opposition to Sequoia's Motion to Shift Costs and Award Sanctions. Parent argued that she filed the due process hearing in good faith based upon her belief that Student did not receive related services required by his individualized education program, called IEP. Parent argued that the California Department of Education previously found violations by Sequoia and ordered compensatory education to Student. Parent contended she became ill during the hearing, which made her unable to continue. Parent disputed Sequoia's reference to Parent's past criminal conduct as proof she filed the action to harass Sequoia's Co-Executive Director.

ATTORNEY'S FEES TO THE PREVAILING PARTY UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

A court may order a parent to pay reasonable attorney's fees to a local educational agency that prevails in an action under the Individuals with Disabilities Education Act, called IDEA, if it determines that the action was frivolous, unreasonable, or without foundation. (20 U.S.C. § 1415(i)(3)(B)(i)(III); 34 C.F.R. § 300.517(a)(1)(i) & (a)(1)(iii).) The district courts of the United States shall have jurisdiction to award attorney's fees under 20 United States Code section 1415(i)(3). (20 U.S.C. § 1415(i)(3)(A).) Therefore, OAH does not have jurisdiction to award attorney's fees to a party who prevails in a due process hearing.

FEE SHIFTING UNDER CALIFORNIA LAW

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. (Gov. Code, §§ 11405.80, 11455.30; Cal. Code. Regs., tit. 5, § 3088; see *Wyner ex rel. Wyner v. Manhattan Beach Unified Sch. 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 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).) Frivolous, and totally and completely without merit, has been interpreted to mean “any reasonable attorney would agree such [challenged conduct] is totally devoid of merit.” (*Karwasky v. Zachay* (1983) 146 Cal.App.3d 679, 681, citing *In re Marriage of Flaherty* (1982) 31 Cal.3d 637, 649–650.)

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 requires 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 (*Campbell*)). Monetary sanctions may not be awarded against a represented party for a violation of presenting a claim, defense, and other legal contentions that are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law. (Code Civ. Proc., § 128.5, subd. (f)(2)(A).)

The following are examples of circumstances where ALJs presiding over a special education due process proceeding have ordered a party’s attorney to pay reasonable attorney’s fees as a result of bad faith actions or tactics that were frivolous or solely intended to cause unnecessary delay:

- failing to comply with OAH's prehearing conference order to prepare a joint proposed witness schedule (*Student v. Stockton Unified Sch. Dist.* (Aug. 28, 2024) OAH Case No. 2024050096);
- failing to produce a scheduled expert witness for due process hearing (*Student v. Chaffey Joint Union High Sch. Dist.* (Aug. 20, 2021) OAH Case No. 2020120161);
- failing to file an accurate prehearing conference statement in disregard of an ALJ's order (*Student v. San Marcos Unified Sch. Dist.* (April 4, 2022) OAH Case No. 2021120803);
- knowingly and deliberately failing to comply with ALJ's order to file a prehearing conference statement in compliance with OAH's pleading requirements (*Student v. Yuba City Unified Sch. Dist.* (April 5, 2023) OAH Case No. 2023020646);
- repeatedly refusing to participate in a resolution session (*Student v. Twin Rivers Unified Sch. Dist.* (April 24, 2023) OAH Case No. 2023020613);
- naming a party in a due process complaint that was not the attorney's client (*Student v. Elk Grove Unified Sch. Dist.* (May 24, 2023) OAH Case No. 2023030253); and
- filing a complaint to litigate claims previously resolved in a settlement agreement (*Student v. Brentwood Union Sch. Dist.* (August 5, 2024) OAH Case No. 2024040511).

As demonstrated in the above orders, an ALJ may shift fees to a party's attorney where their bad faith actions or tactics are frivolous or solely intended to cause unnecessary delay. (Gov. Code, § 11455.30, subd. (a); Cal. Code. Regs., tit. 5, § 3088, subd. (a).) In each of the above orders, the attorney disregarded an order by the ALJ, blatantly disregarded OAH's pleading requirements, or engaged in bad faith actions or

tactics that were frivolous or solely intended to cause unnecessary delay in the matter pending before the ALJ presiding over the proceeding.

Sequoia seeks a sanctions order for payment of its attorney's fees in the amount of \$37,647.50 for expenses incurred in defending the complaint, together with paralegal fees in the amount of \$1,236.00. Alternatively, Sequoia requests reimbursement in lesser amounts for fees incurred in filing various motions with OAH, including its motion to shift expenses. The focus of Sequoia's motion is that Parent filed the complaint for an improper purposes, specifically to harass Sequoia and its employees, cause unnecessary delay, or to needlessly increase the costs of litigation.

Only an ALJ presiding over a hearing may place expenses at issue. (Cal. Code. Regs. tit. 5, § 3088, subd. (b).) Here, Sequoia did not incur costs because of a motion pending before OAH based on an ALJ placing expenses at issue. Rather, Sequoia requested reimbursement of costs incurred in defending the complaint filed by Student. OAH declines to order sanctions, including shifting costs, because the ALJ did not place expenses at issue.

Sequoia further argues the issues raised by Student were brought solely to harass Sequoia. However, Parent elicited testimony and documents demonstrating that some of Student's related services were not tracked or materially implemented during the period at issue. Although Parent at times was argumentative and disrespectful to Sequoia's attorneys and witnesses and the undersigned ALJ, Sequoia did not establish the claims were totally and completely without merit and brought for the sole purpose of harassing Sequoia.

Sanctions are a remedy rarely awarded. They are intended to punish conduct causing prejudice or attempting to thwart the due process rights of others. Sequoia

failed to prove that Parent's actions, or omissions, were meritless, or frivolous; or that the actions were pursued in bad faith. (*Campbell, supra*, at p. 574.)

Further, the IDEA contemplates that parents with disabilities may bring actions under its provisions to protect the rights of children with disabilities. Parents often lack legal expertise about the provisions of the IDEA and its implementing regulations, the California Education Code and regulations, and relevant case authority. Parents cannot be expected to have the same technical skills for litigating a due process complaint as a licensed special education attorney who is educated and trained on special education law and trial techniques and strategies. Here, an award of sanctions under these facts could create a chilling effect on parents who lack the resources to retain legal counsel or who otherwise wish to litigate the complaint themselves. For these additional reasons, the undersigned ALJ declines to shift costs and award sanctions in this matter.

Sequoia's motion to shift expenses and award sanctions is denied.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings