

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CAMINO NUEVO CHARTER ACADEMY #4: SANDRA CISNEROS
CAMPUS.

OAH CASE NUMBER 2026020920

ORDER DENYING MOTION TO SHIFT STUDENT'S
ATTORNEY'S FEES TO CHARTER SCHOOL

JULY 28, 2026

On July 21, 2026, Student filed Student's Motion for Sanctions against Camino Nuevo Charter Academy #4: Sandra Cisneros Campus, called Camino Nuevo Charter, and its attorneys of record, O'Hagan Meyer. Student's motion seeks an order shifting \$1,130.50 in attorney's fees Student incurred when Student's attorney, Jennifer Chang, prepared Student's pending motion for sanctions. Camino Nuevo Charter and O'Hagan Meyer did not respond to the motion. .

PROCEDURAL HISTORY

Student filed this case on February 23, 2026. The hearing was first continued on March 3, 2026, to June 9 through 11, 2026, to allow time for the parties to participate in a mediation set for the morning of April 22, 2026. According to Student, Camino Nuevo Charter's attorney cancelled the mediation on April 21, 2026, due to the illness of a participant, and Student agreed to the cancellation.

The parties attended a prehearing conference, called a PHC, on May 29, 2026, before administrative law judge, called an ALJ, Alexa Hohensee. At that PHC, ALJ Hohensee granted the parties' joint request for a second continuance, and set a mediation for June 29, 2026. On June 26, 2026, Camino Nuevo Charter's attorney, Brendan Sapien, with the O'Hagan Meyer law firm, informed Student's attorney via email that it cancelled the mediation set for June 29, 2026, because Camino Nuevo Charter's representative was not available because he would be engaged in a training on June 29, 2026. Student's motion stated Student did not agree to the cancellation of that mediation.

On July 14, 2026, Student's attorney was informed in an automatic email reply that Sapien, the O'Hagan Meyer attorney handling this case on behalf of Camino Nuevo Charter, had left the law firm, and instructed the sender to contact three other attorneys at the firm. Student's attorney then served those three referenced O'Hagan Meyer attorneys with Student's PHC Statement.

A PHC was held in this case on July 17, 2026, before the undersigned ALJ. Student's attorney, Jennifer Chang, appeared on Student's behalf. Attorney Alex Wong from O'Hagan Meyer appeared at the PHC on behalf of Camino Nuevo Charter. Wong stated at that PHC that Sapien had left the law firm abruptly on July 13, 2026, and no

other attorney at the firm was familiar with this case or the applicable law under the Individuals with Disabilities in Education Act, called the IDEA.

On July 21, 2026, Student filed the pending Motion for Sanctions. On July 22, 2026, Camino Nuevo Charter filed a motion to continue the PHC and hearing because it had to hire a new law firm to represent it in this case due to Sapien's sudden departure from O'Hagan Meyer. Student opposed that motion. The motion was granted. The continued PHC is currently set for August 14, 2026, and the hearing is set for August 25, through 27, 2026. O'Hagan Meyer continues to be counsel of record for Camino Nuevo Charter in this case.

APPLICABLE 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, 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. 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.)

DISCUSSION

Student's motion for sanctions was not timely filed. It was filed after the July 17, 2026, PHC. Student did not present evidence constituting good cause to justify Student's untimely filing of the pending motion for sanctions. Student's motion for sanctions complains that Camino Nuevo Charter's cancellation of the second mediation set for June 29, 2026, was frivolous and a tactic to unnecessarily delay Student's due process hearing. If that was the case, Student could have filed the pending motion for sanctions at least three business days before the July 17, 2026 PHC.

Furthermore, Student's untimely motion for sanctions fails because mediations are voluntary, and a cancellation by one party of a scheduled mediation does not in itself constitute a frivolous tactic or bad faith action. Furthermore, Student seeks payment from Respondent and its attorneys only for the attorney's fees Student incurred in preparing the pending motion for sanctions. Student could have avoided

incurring those attorney's fees, by simply not bringing the motion. Student does not contend he incurred attorney's fees due to Camino Nuevo Charter's cancellation of the mediation three days before it was scheduled to occur. Moreover, there is no evidence presented in Student's motion that establishes Camino Nuevo Charter or its attorney cancelled the June 29, 2026 mediation merely as a tactic to delay the due process hearing. Therefore, Student's motion seeking to shift its attorney's fees incurred for preparation of Student's motion for sanctions is denied.

ORDER

1. Student's motion for sanctions is denied.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings