

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:
PARENTS ON BEHALF OF STUDENT,

and.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026041102

OAH CASE NUMBER 2026021131

ORDER TO SHOW CAUSE AS TO WHY OAH'S COSTS
SHOULD NOT BE SHIFTED TO PARTIES

AUGUST 17, 2026

On May 6, 2026, the Office of Administrative Hearings, or OAH, consolidated Student v. Irvine Unified School District, OAH Case No. 2026041102 with Irvine Unified School District v. Student, OAH Case No. 2026021131. Thus, both parties were petitioners in their respective cases. Prehearing Conference, or PHC, in the consolidated matter was held on August 3, 2026.

On August 11, 2026, Administrative Law Judge, or ALJ, Claire Yazigi convened the first day of due process hearing at 9:30 AM, pursuant to scheduling order. The

undersigned diligently conducted hearing preparation on August 11, 2026, and August 12, 2026, prior to the hearing's start.

Attorney Madeline Knutson appeared on Student's behalf, and attorney Megan Resnik appeared on Irvine's behalf. The attorneys represented that the parties had executed a final settlement agreement the day prior to the due process hearing convening. Student's counsel represented that Student filed a Joint Notice of Settlement that morning. That notice was still in process and had not been uploaded to the case file by the time the hearing was set to begin.

The August 3, 2026, Order Following Prehearing Conference sets forth the procedure for notifying OAH if a matter settles on the eve of hearing. As noted, documents filed with OAH must be processed and are not immediately uploaded to a particular case. OAH takes care not to unnecessarily expend limited public resources. Toward that end, the Order Following PHC states:

"The parties must inform OAH immediately if they reach a settlement agreement or otherwise resolve the dispute before the scheduled hearing... If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties must leave a voicemail message regarding the settlement at (916) 274-6035... Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed settlement agreement has been received and processed by OAH."

Rather, the attorneys electronically submitted a Joint Notice of Settlement to OAH at 9:19 AM on August 11, 2026, exactly eleven minutes before the start of hearing. This filing did not become a part of the administrative record, and thus was not viewable by the ALJ, until 10:00 AM, well after the commencement of hearing. An individual from Irvine's counsel's office also left a voice message with OAH at 10:24 AM, informing OAH

of the settlement. This message came almost an hour after the start of hearing, and did not become notated into the administrative file until 10:35 AM.

OAH issues this Order to Show Cause for why costs incurred by OAH from the time the parties executed the settlement agreement through drafting this Order to Show Cause, should not be shifted to the parties. The parties' responses are due by 3:00 PM on Thursday, August 20, 2026.

In certain circumstances, an ALJ 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 v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1029 ["Clearly [Cal. Code Regs., tit. 5] § 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).)

With prior approval from the General Counsel of the California Department of Education, an ALJ may "order a party, the party's attorney or other authorized representative, or both, to pay reasonable expenses, including costs of personnel" to OAH as a result of bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. (Cal. Code. Regs., tit. 5, § 3088, subds. (a) & (e); see Gov. Cod 11455.30, subd. (a).)

"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.)

Accordingly, the parties are ordered to show cause as to why OAH's expenses incurred after the time the parties executed a settlement agreement and failed to timely file a notice of dismissal should not be shifted to the parties.

As noted above, this is a consolidated matter. Thus, both parties were independently required to notify OAH of the settlement. The attorneys appeared at the prehearing conference and received a copy of the Order Following Prehearing Conference. It was their obligation, not their respective clients', to make the notification. Thus, the cost for responding to the OSC shall be the responsibility of the attorneys or their law firm and shall not be charged to their clients.

ORDER

1. Each party shall file with OAH a written response by 3:00 PM on August 20, 2026, as to why OAH's expenses incurred after the time the parties executed a settlement agreement and failed to timely file a notice of settlement should not be shifted to the parties.
2. The cost and fees generated responding to this OSC shall not be charged to the clients but will be borne solely by the attorneys and their law firms.

IT IS SO ORDERED.



Claire Yazigi

Administrative Law Judge

Office of Administrative Hearings