BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025110650

ORDER TO SHOW CAUSE WHY STUDENT COUNSEL SHOULD NOT HAVE COSTS SHIFTED FOR FAILING TO APPEAR AT THE PREHEARING CONFERENCE, FAILING TO FILE A PREHEARING CONFERENCE STATEMENT, WHY THE COMPLAINT SHOULD NOT BE DISMISSED, AND CONTINUING PREHEARING CONFERENCE AND DUE PROCESS HEARING

APRIL 13, 2026

On April 10, 2026, a videoconference due process hearing was scheduled before Administrative Law Judge Cynthia Fritz, Office of Administrative Hearings, called OAH.

The prehearing conference was scheduled for 3:00 p.m. The administrative law judge is called the ALJ. The prehearing conference is called PHC.

The ALJ attempted to convene the PHC at 3:00 pm. Attorney Cathy Holmes appeared on behalf of Riverside Unified School District. Attorney D. Michael Ambrose appeared on behalf of California School for the Deaf, Riverside. Student's counsel Marc Levine did not appear. Marc Levine did not filed a PHC statement on behalf of Student, as required under OAH procedures.

The ALJ and parties waited to 3:05 PM and the ALJ commenced the PHC. The parties informed the ALJ that all parties had reached a settlement agreement but it was not yet executed. Because the settlement agreement had not yet been executed, the ALJ is required to conduct the prehearing conference. However, the ALJ was unable to do so because Student's counsel did not appear for the PHC.

APPLICABLE LAW

If the parent and local education agency have not resolved the due process complaint within 30 days of the receipt of the complaint, OAH is required to issue a decision within the next 45 days, unless a continuance is granted for good cause. (20 U.S.C. § 1415(f)(1)(B)(ii); 34 C.F.R. § 300.51; Ed. Code, § 56502, subd. (f).)

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).) 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).) "Whether an action is frivolous is governed by an objective standard: any reasonable attorney would agree it is totally and completely without merit [citations]." (*Levy v. Blum* (2001) 92 Cal.App.4th 625, 635.) In addition, there must be a showing of improper purpose. (*Ibid.*) A finding of "bad faith" does not require a determination of evil motive. (*West Coast Development v. Reed* (1992) 2 Cal.App.4th 693, 702.)

DISCUSSION

Given the short time frames applicable to this case, it is critical that the parties follow orders issued by OAH and participate in advancing the matter to hearing or resolution. Student's counsel's non-compliance with procedure and failure to appear at the PHC and participate put the timely resolution of this matter in doubt. As the attorney of record, Levine is responsible for understanding and following OAH's procedures, including making all required appearances. Failure to do so may result in the complaint being dismissed.

Levine is ordered to file a declaration with OAH no later than 5:00 p.m. on Tuesday, April 14, 2026, explaining the failure to appear at the PHC on April 10, 2026, and failure to file a prehearing conference statement, and why he should not be ordered to pay costs incurred by Riverside Unified School District, California School for the Deaf, Riverside, and the Office of Administrative Hearings as a result of his failure to appear at the PHC.

Failure of Levine to submit a declaration may result in a dismissal of this matter and other consequences, up to and including sanctions, and shifting costs. Riverside Unified School District and California School for the Deaf, Riverside, may respond to the Order to Show Cause by 12:00 PM noon on Thursday, April 16, 2026, but is not required to respond.

As a result of the delay caused by the failure to appear, this matter is continued. The Order to Show Cause hearing will take place on Friday, April 17, 2026, at 3:00 PM. The prehearing conference is continued to Friday, April 17, 2026, immediately after the Order to Show Cause hearing at or around April 17, 2026, at 3:00 PM.

The due process hearing is continued to April 28, 29, and 30, 2026, and continuing day to day, as needed at the discretion of the ALJ. The parties must immediately notify all potential witnesses of the hearing dates, and must subpoena witnesses if necessary, to ensure that the witnesses will be available to testify.

IT IS SO ORDERED.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings