BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018070743
v.	ORDER TO SHOW CAUSE WHY STUDENT SHOULD NOT BE ORDERED TO PAY EXPENSES
COMPTON UNIFIED SCHOOL DISTRICT.	

On July 16, 2018, Student filed with the Office of Administrative Hearings a request for a due process hearing naming Compton Unified School District. On August 29, 2018, OAH granted the parties' joint request for continuance, setting a mediation for 9:30 a.m., on September 13, 2018.

On September 13, 2018, the assigned mediator traveled to the District's office. Student and Student's attorney, Lisa Shafii, did not appear for the mediation and did not answer the telephone, nor respond to voicemail messages left by the mediator at the telephone number on file. OAH subsequently canceled the mediation.

APPLICABLE LAW

Under certain circumstances, an administrative law judge presiding over a special education proceeding 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 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."].) A party may be order to pay expenses of a party, or 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, subd. (a).) A party may also be ordered to pay costs for failure or refusal, without substantial justification, to comply with an order of the presiding officer. (Govt. Code § 11455.10.) Only the ALJ presiding at the hearing may place expenses at issue. (Cal. Code. Regs., tit. 5, § 3088, subd. (b).)

ORDER TO SHOW CAUSE

Student is ordered to show cause why Student's attorney, Lisa Shafii, should not be required to pay OAH's costs as to the September 13, 2018 mediation, which includes OAH travel expenses related to the mediation. **Student is ordered to file a written response with OAH by no later than 5:00 p.m. on September 17, 2018**. A copy of the response shall be served upon District. District is not expected to file a written response.

Student's response shall address why Student's attorney did not appear at the mediation despite asking for and agreeing to the mediation date in the continuance request. **Student's written response shall address why OAH should not order Student to pay OAH's expenses for sending a mediator to the scheduled September 13, 2018 mediation and OAH travel expenses related to this mediation, and for this order to show cause.**

The order to show cause hearing shall take place telephonically on September 24, 2018, at 11:00 a.m. Failure of Student's representative to appear telephonically at the order to show cause hearing on September 24, 2018, may result in additional sanctions.

ORDER

1. An Order to Show Cause as to Why Student Should Not be Ordered to Pay Expenses is hereby issued. Student must file a response no later than 5:00 p.m. on Monday, September 17, 2018.

2. A telephonic order to show cause hearing shall be convened at 11:00 a.m. on Monday, September 24, 2018.

IT IS SO ORDERED.

DATE: September 13, 2018

DocuSigned by:
June Lehrman
[illegible]
JUNE LEHRMAN
Administrative Law Judge
Office of Administrative Hearings