BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

WEST COVINA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026030918

ORDER TO SHOW CAUSE

APRIL 21, 2026

On March 19, 2026, attorney Diana Renteria filed a due process hearing request on Student's behalf naming West Covina Unified School District. Renteria was the sole attorney listed on the complaint. On April 13, 2026, attorney Ryan Song appeared at the prehearing conference on Student's behalf.

The Order following Prehearing Conference, confirmed the hearing would convene at 9:30 AM, on April 21, 2026. It also specified that, "[t]he parties must inform OAH immediately if they reach a settlement agreement or otherwise resolve the dispute before the scheduled hearing." It further orders, "[i]f 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." No dismissal, request to withdraw, or telephone call was submitted to OAH prior to the hearing convening.

April 21, 2026, Administrative Law Judge Tiffany Gilmartin, Office of Administrative Hearings, convened the first day of an expedited due process hearing in the above matter. The Office of Administrative Hearings is called OAH.

The record was opened at 9:30 AM in accordance with the directions provided in the Order Following Prehearing Conference issued on April 15, 2026. No one appeared on Student's behalf. Tracy Petznick Johnson, attorney at law, appeared on behalf of West Covina Unified School District. Johnson represented that the parties had executed a final settlement agreement. She expected Student's counsel to have submitted a request to dismiss the matter prior to the hearing convening. No request to dismiss was submitted before hearing.

A recess was taken and parties were ordered to appear by 10 AM. Both Johnson and OAH staff reached out to Student's counsel. Song appeared at 10:05 AM on Student's behalf.

He confirmed parties had an agreement, but that he had failed to file it as of this morning. He stated the mandated 10 AM appearance precluded him from filing the notice of settlement. He provided no explanation why the request to dismiss was not submitted prior to the hearing's scheduled time of 9:30 AM.

OAH issues this Order to Show Cause for why costs incurred should not be shifted to Student. Student's response is due by the close of business today, April 21, 2026. Renteria, Student's counsel of record and Song, the attorney who appeared on Student's behalf at the prehearing conference are ordered to appear at 9:00 AM on April 22, 2026, for a hearing on the Order to Show Cause.

APPLICABLE LAW

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.)

DISCUSSION

On March 20, 2026, OAH notified parties of the expedited hearing date. Expedited hearings must occur within 20 school days from the date of request. A decision must be issued with 10 school days of the completion of the hearing. Thus,

Parties are prohibited from agreeing to different hearing dates and continuances are not granted except in exceptional circumstances.

Accordingly, Student is Ordered to Show Cause why West Covina's expenses incurred in preparing for and appearing at the expedited due process hearing should not shifted to Student. Student is also Ordered to Show Cause why the expenses incurred by OAH for preparing for, participating in, and ruling no post hearing motions, should not be shifted to Student or Student's counsel. Specifically, for failing to appear on Day 1 of an expedited due process hearing and failing to timely file a notice of dismissal for the expedited due process hearing. Student's written response to this Order to Show Cause shall be submitted to OAH no later than 5:00 PM on Tuesday, April 21, 2026. West Covina, while not required to respond, may submit a response no later than close of business on April 21, 2026.

ORDER

1. Student is to submit a written response by 5 PM on April 21, 2026, as to why OAH and West Covina's costs to attend hearing on April 21, 2026, should not be shifted to Student for failing to timely submit notice of settlement and request to dismiss.

2. Renteria and Song are both ordered to appear at 9 AM on Wednesday, April 22, 2026, to address the Order to Show Cause.

IT IS SO ORDERED.

Tiffany Gilmartin

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings