BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VISALIA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025070934

ORDER DENYING STUDENT'S REQUEST FOR SANCTIONS AND WITHHOLDING ACTION ON STUDENT'S REQUEST TO DISMISS

JULY 31, 2025

On July 23, 2025, Parent on behalf of Student filed a request for due process hearing, known as a complaint, with the Office of Administrative Hearings, naming Visalia Unified School District. On July 24, 2025, Parent on behalf of Student submitted an additional complaint, which included a durable power of attorney, naming Parent's current husband, who is not a biological parent of Student.

On July 29, 2025, Student filed a formal complaint against Sarah L. Garcia, attorney for Visalia, which OAH is treating as a request that OAH sanction Attorney Garcia. The grounds for the sanctions request are that Attorney Garcia is not complying

with Parent's request that Attorney Garcia communicate with Parent's husband, and not Parent, regarding the complaint, and to cease all direct communication with Parent. In the sanctions request, Student mentions that Parent made a reasonable accommodation request with OAH that OAH permit Parent's husband to speak on Parent's behalf regarding Student's complaint due to Parent's disability, which OAH did not grant.

On July 31, 2025, Parent filed a request that OAH dismiss Student's complaint without prejudice "due to civil violations to a minor and disabled individuals and ADA violations."

APPLICABLE LAW

In certain circumstances, an administrative law judge 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. With approval from the General Counsel of the California Department of Education, the ALJ presiding over the hearing 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 the entity that is responsible for conducting due process hearings) 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) & €; see Gov. Code,

§ 11455.30, subd. (a).) 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.)

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to a public agency involved in any decisions regarding the student. (Ed. Code, § 56501, subd. (a).) OAH does not have jurisdiction to entertain a complaint filed by an individual who does not meet the definition of "parent" and therefore does not hold the student's educational rights.

The definition of "parent" under the governing federal and state statutes and regulations is broad and includes many individuals. This is to ensure that children's rights are protected and not defeated because of an unusual parenting situation. Pursuant to the IDEA , the term "parent" means: a natural, adoptive, or foster parent of a

child (unless a foster parent is prohibited by State law from serving as a parent); a guardian (but not the State if the child is a ward of the State); an individual acting in the place of a natural or adoptive parent with whom the child lives, or an individual who is legally responsible for the child's welfare; or an individual assigned to be a surrogate parent pursuant to title 20 United States Code section 1415 (b)(2). (20. U.S.C. § 1401(23); 34 C.F.R. § 300.30.)

The state definition of parent for special education purposes is largely analogous to the federal definition. California defines "parent" as: a biological or adoptive parent; a foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order; a guardian authorized to act as the child's parent or to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Section 361 of the Welfare and Institutions Code; an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare; or a surrogate parent who has been appointed pursuant to Section 7579.5 of the Government Code. (Ed. Code, § 56028, subd. (a).)

When more than one party qualifies as a parent pursuant to these definitions, the biological parent is presumed to be the parent unless the biological parent does not have legal authority to make educational decisions for the child. (34 C.F.R. § 300.30(b)(1); Ed. Code, § 56028, subd. (b)(1).) If a judicial decree or order identifies a specific person to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person shall be determined to be the "parent." (34 C.F.R. § 300.30(b)(2); Ed. Code, § 56028, subd. (b)(2).)

OAH does not have jurisdiction to entertain a complaint filed by an individual who does not hold the student's educational rights, or a complaint filed by a school district that names a person who does not qualify as a party. OAH may dismiss a matter in its entirety where it is evident from the face of the complaint that the alleged issues fall outside of OAH's jurisdiction. Such circumstances may include complaints that assert civil rights claims or seek enforcement of a settlement agreement, complaints naming an entity that cannot be legally responsible for providing special education or related services under the facts alleged, or complaints brought by or naming an individual without legal standing to assert a student's educational rights.

DISCUSSION

A review of the durable power of attorney documents provided by Parent do not make any mention of the educational rights of Student. The only documents that discuss educational rights submitted by Parent involve the Superior Court granting Parent sole custody of Student, with no mention of Parent's current husband and Student's educational rights. While the durable power of attorney permits Parent's husband to assert rights of Parent, it does not permit Parent's husband to assert the rights of Student as Parent has not transferred Student's educational rights to Parent's husband.

For Parent's husband to represent the educational rights of Student in this matter before OAH, Parent needs to give Parent's husband educational rights regarding Student. Accordingly, since Parent has not transferred Student's educational rights to Parent's husband, OAH denies the request to sanction Attorney Garcia.

ORDER

1. Student's request for Sanctions is Denied.
2. Student's request to dismiss the complaint is withheld until August 8, 2025 to permit any transfer of Student's educational rights to Parent's husband. Student has until 5:00 PM on August 7, 2025, to submit proof to OAH and Visalia that Parent has transferred Student's educational rights to Parent's husband.

IT IS SO ORDERED.

Peter Paul Castillo

Peter Paul Castillo
Division Chief Administrative Law Judge
Office of Administrative Hearings