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3 **UNITED STATES DISTRICT COURT**  
4 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
5

6 **KERN COUNTY SUPERINTENDENT OF**  
7 **SCHOOLS – VALLEY OAKS CHARTER**  
8 **SCHOOL TEHACHAPI,**

9 **Plaintiff,**

10 **v.**

11 **A.C., individually, and by and through her**  
12 **guardian ad litem GUSTAVO CORTES, AND**  
13 **GUSTAVO CORTES,**

14 **Defendants.**

**1:18-cv-01331-LJO-JLT**

**MEMORANDUM DECISION AND**  
**ORDER DENYING MOTION FOR**  
**SANCTIONS (ECF NO. 13)**

15 **I. BACKGROUND**

16 This case arises out of an underlying dispute between the parties over the provision of  
17 educational services to A.C., a young adult who is eligible for special education services under the  
18 Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400, *et seq.* Generally, IDEA  
19 operates to ensure that children with disabilities have access to a Free and Appropriate Public Education  
20 (“FAPE”) that meets their unique needs. *Honig v. Doe*, 484 U.S. 305, 309 (1988).

21 In 2016, a dispute arose pertaining to the provision of services to A.C. In an initial administrative  
22 ruling, in Office of Administrative Hearings (“OAH”) Case No. 2016040211, Kern County  
23 Superintendent of Schools – Valley Oaks Charter School Tehachapi (“KCSOS-VOCS”) was ordered to  
24 provide A.C. residential treatment. *See* ECF No. 13 at 2. Eventually, A.C. was placed in residential  
25 treatment program in San Diego. *Id.*

A second dispute arose about how A.C.’s needs were to be met after she aged out of the San

1 Diego residential treatment program. *Id.* According to A.C. and her guardian, as part of an October 2017  
2 Individualized Education Plan (“IEP”), KCSOS-VOCS agreed to fund A.C.’s continued attendance at  
3 the San Diego facility as a day student, while providing funding that would allow A.C.’s parents to  
4 reside nearby to provide her with housing and transportation. *Id.* A.C. filed OAH Case No. 2017110316,  
5 alleging that KCSOS-VOCS had not been abiding by this agreement. *Id.* This OAH case was resolved in  
6 KCSOS-VOCS’s favor, with the Administrative Law Judge (“ALJ”) finding that A.C.’s guardian had  
7 not unconditionally consented to any of the options offered to her in the October 2017 IEP. *Id.* at 4. A.C.  
8 and her guardian are appealing that final administrative decision in this Court under Case No. 1:18-cv-  
9 00909-LJO-JLT.

10 A.C. and her guardian filed yet another OAH complaint on July 16, 2018 (OAH Case No.  
11 2018070796), this time arguing that KCSOS-VOCS denied A.C. a FAPE by failing to provide A.C. and  
12 her family with prior written notice that it did not consider the October 2017 IEP consented to. ECF No.  
13 13 at 4. In late August 2018, KCSOS-VOCS moved to dismiss the OAH complaint on *res judicata*  
14 grounds. *Id.* at Ex. A. The ALJ denied the motion, ruling that the earlier administrative decisions had not  
15 decided the issue of prior written notice. *Id.* at Ex. C. KCSOS-VOCS renewed the motion to dismiss in  
16 mid-September 2018. *Id.* at Ex. D. The ALJ denied the motion for reconsideration on September 21,  
17 2018. *Id.* at Ex. F.

18 Plaintiff filed this lawsuit on September 26, 2018, seeking declaratory and injunctive relief  
19 against a then-ongoing administrative proceeding in OAH Case No. 2018070796. ECF No. 2. On the  
20 same day, Plaintiff also filed a request for a temporary restraining order (“TRO”) seeking an “injunction  
21 or holding” precluding the OAH proceeding from continuing. ECF No. 6. On September 29, 2018, the  
22 Court denied *sua sponte* the TRO request because Plaintiff failed to demonstrate cognizable irreparable  
23 injury. ECF No. 11. A few days later, following Defendants’ conditional voluntary dismissal without  
24 prejudice of OAH Case No. 2018070796, *see* ECF No. 13, Ex. G, Plaintiff voluntarily dismissed this  
25 case. ECF No. 12.



1 establishing new law.” Fed. R. Civ. P. 11(b)(2). Here, Plaintiff’s complaint sought interlocutory review  
2 of the ALJ’s refusal to dismiss Defendants’ underlying OAH allegations. While the Ninth Circuit has  
3 ruled generally that interlocutory appeals from OAH proceedings are not appropriate, *see M.M. v.*  
4 *Lafayette Sch. Dist.*, 681 F.3d 1082, 1090 (9th Cir. 2012), the facts of this case are not substantially  
5 identical to those of *M.M.* and the Ninth Circuit specifically declined therein to rule out whether  
6 “exceptions might be appropriate” to the general holding that a party must wait until the conclusion of  
7 the administrative proceedings to appeal an ALJ determination. *See id.* at 1090 n. 11. While, the Court  
8 believes the legal basis for Plaintiff’s lawsuit was tenuous, it does not agree that it was technically  
9 frivolous or otherwise worthy of sanction. Accordingly, the motion for sanctions is DENIED.

10 **III. CONCLUSION AND ORDER**

11 For the reasons set forth below, the motion for sanction is DENIED. As the underlying  
12 Complaint has been dismissed, the Clerk of Court is directed to CLOSE THIS CASE.

13  
14 IT IS SO ORDERED.

15 Dated: November 14, 2018

/s/ Lawrence J. O’Neill  
UNITED STATES CHIEF DISTRICT JUDGE