

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011080592

ORDER DENYING DISTRICT'S
MOTION TO STRIKE STUDENT'S
RESPONSE TO DISTRICT'S
RESPONSE

On August 15, 2011, Student filed a request for mediation and due process hearing (complaint). On August 25, 2011, District filed a response to the complaint. On August 31, 2011, Student filed a response to District's response to the complaint, which included exhibits. On September 16, 2011, District filed a motion to strike Student's response to District's response and exhibits. District contends that Student's response to its written response, which it filed with OAH, is impermissible under IDEA and that it is, in fact, a motion for summary judgment. As such, District seeks to strike Student's response and its exhibits.

Although under certain circumstances a local educational agency (LEA) must send the parent a written response to the complaint, the Individuals with Disabilities Education Act (IDEA) does not require a LEA to file a written response to Student's due process complaint with the Office of Administrative Hearings. (See 20 U.S.C. §1415(c)(2)(B)(i).) On its face, the IDEA's response requirement shows that it is intended to give notice to the parent of the reason for the LEA's action, not to provide a document for use in the due process hearing procedures. Thus, neither the District's response nor Student's response to District's response has any evidentiary value. Both responses are immaterial to the ultimate determination on the merits, which must be based upon an evidentiary record made by the parties at the hearing. In sum, there is no reason to strike student's filing, as neither it, nor District's response, will be considered by OAH to reach a decision.

Accordingly, District's motion is denied.

IT IS SO ORDERED.

Dated: September 29, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings