

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

EL DORADO UNION HIGH SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011110251

ORDER DENYING MOTION TO
DISMISS

On November 7, 2011, the El Dorado Union High School District (District) filed a Due Process hearing Request (complaint), containing 11 pages, naming Parents on behalf of Student (Student) as respondent. Student filed a motion to dismiss on November 7, 2011, and addendums to the motion on November 9 and 14, 2011, which seeks dismissal of the complaint on grounds that the District misrepresented facts in the complaint and that the matter is moot. The District filed an opposition to the motion on November 10, 2011. Student filed a reply to the District opposition on November 14, 2011. In the reply, Student alleges facts to counter those alleged by the District in its complaint.¹

MOOTNESS

Mootness describes the doctrine under which courts decline to hear a case because it fails to present an existing controversy. (see *Wilson v. Los Angeles County Civil Service Comm.* (1952) 112 Cal.App.2d 450, 453.) Student has made no showing that there is not an existing controversy. Thus, Student's contention that the matter is moot is without merit.

SUMMARY JUDGMENT

In essence, Student seeks dismissal on grounds that the facts alleged by the District are not true and that the District has failed to prove its case.

Although the Office of Administrative Hearings (OAH) will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc.....), special education law does not provide for a summary judgment procedure. Here, the Motion is not limited to

¹ On November 9, 2011, Student filed his own complaint against the District.

matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

ORDER

1. Student's motion to dismiss is denied.
2. All previously scheduled dates shall remain on calendar.

IT IS SO ORDERED.

Dated: November 15, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings