

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

NEWPORT-MESA UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2011120423

ORDER DENYING NOTICE OF
INSUFFICIENCY AND MOTION TO
DISMISS AS MOOT

On December 13, 2011, the Newport-Mesa Unified School District (District) filed a Request for Due Process Hearing (complaint) naming Student. The District's complaint states that Student requested an independent education evaluation (IEE). The District asked the Office of Administrative Hearings to validate its assessments of Student and to find that the District is not required to provide the IEE.

On December 23, 2011, Student filed a motion to dismiss the District's complaint. Student also alleged in his motion to dismiss that the District's complaint is insufficiently plead. Student attached a declaration from his attorney which states that neither Student's parents nor Student's attorney ever requested that the District fund an IEE.

The District filed an opposition to Student's motion to dismiss and notice of insufficiency on December 28, 2011. In the same pleading, the District asked OAH to dismiss its complaint based upon the declaration of Student's attorney which states, under penalty of perjury, that neither Student's parents nor his attorney have requested that the District fund an IEE.

Since the District is requesting dismissal of its complaint based on the fact that there is presently no matter in controversy between the parties, Student's motion to dismiss and notice of insufficiency are denied as moot.

The District's complaint will be dismissed under separate order.

IT IS SO ORDERED.

Dated: December 29, 2011

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings