

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ALCANES UNION HIGH SCHOOL
DISTRICT; CONTRA COSTA COUNTY
OFFICE OF EDUCATION.

OAH CASE NO. 2013080104

ORDER DENYING CCCOE'S MOTION
TO DISMISS

Student filed an amended complaint on October 2, 2013. The amended complaint added Contra Costa County Office of Education (CCCOE) as a respondent. Student alleges in his amended complaint that, prior to June 1, 2013, he attended Floyd Marchus Special Education School, "a facility that is administered and operated by the [CCCOE]." On October 30, 2013, CCCOE filed a motion to dismiss, which was not supported by a declaration under penalty of perjury or any authenticated evidence. CCCOE argues that it was not the local educational agency (LEA) responsible for providing Student with an educational program during the time at issue, and therefore it is not a proper party to this matter. Student did not file a response to the motion.

Although 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, a factual issue exists as to whether CCCOE was an LEA responsible for providing Student with an educational program. The motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits which requires findings of fact by the hearing judge. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

Dated: November 6, 2013

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings