

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

GARDEN GROVE UNIFIED SCHOOL  
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2016031090

ORDER DENYING STUDENT'S  
MOTION TO DISMISS

On March 21, 2016, Garden Grove Unified School District filed a Request for Due Process Hearing with the Office of Administrative Hearings naming Parents on behalf of Student (Student). The complaint contains a single issue: Is the District's March 17, 2016 offer of transportation appropriate?

On March 24, 2016, Student filed with OAH a motion to dismiss District's complaint. The motion contains nine pages of alleged facts and arguments plus Student's counter argument to District's complaint. Student seeks the Administrative Law Judge to dismiss District's complaint to prevent District from implementing its proposed transportation offer. Student is, in effect, requesting the ALJ to make a determination of facts and law in favor of Student's position.

On March 28, 2016, District filed its opposition which contended that Student's motion is a request for summary judgment.

On March 30, 2016, Student filed a response to District's opposition alleging defenses against the District of (a) failing to provide Parents with a prior written notice of the offer made at the March 17, 2016 individualized education program team meeting, and (b) Parents had a right to receive a written offer of a free appropriate public education.

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, the Motion is not limited to 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.

IT IS SO ORDERED.

DATE: April 1, 2016

DocuSigned by:  
  
27C19E48831C4E3...

---

ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings