

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CARLSBAD UNIFIED SCHOOL
DISTRICT AND SAN DIEGO COUNTY
OFFICE OF EDUCATION.

OAH Case No. 2016050704

ORDER DENYING MOTION TO
DISMISS WITHOUT PREJUDICE

On May 6, 2016, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming Carlsbad Unified School District and San Diego County Office of Education. On May 17, 2016, Carlsbad filed a motion to dismiss Section 504 claims, alleging that OAH lacks jurisdiction over issue three in Student's complaint. OAH received no response to the motion to dismiss from Student or San Diego.

Carlsbad's motion is denied without prejudice. Although there is a notation at the bottom of Carlsbad's letter listing Student's attorney and a San Diego representative next to "cc," no proof of service was attached to the letter. In addition, the facsimile number listed next to Student's attorney is the attorney's telephone number. Because neither Student nor San Diego responded to the motion, there is no indication they were properly served with the motion. Carlsbad is not precluded from re-filing its motion to dismiss with a proof of service.

IT IS SO ORDERED.

DATE: May 27, 2016

DocuSigned by:

Lisa Lunsford

D6E73A1C80D6473...

LISA LUNSFORD

Administrative Law Judge

Office of Administrative Hearings

