

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2010100191

ORDER DENYING DISTRICT'S
MOTION IN LIMINE

On May 23, 2011, Santa Monica – Malibu Unified School District (District) filed a motion in limine seeking an order that would bar Student from presenting evidence of the costs related to Parent's unilateral placement and funding of educational services. District argues that as a matter of law, Student cannot recover reimbursement because it owed no duty to Student after Parent did not consent to special education, or alternatively, because Student failed to give the required statutory notice of unilateral placement. Student filed an opposition on May 27, 2011. As discussed below, District's motion is denied.

Although OAH has granted 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. . . . , OAH will not dismiss claims that have otherwise been properly pleaded. The District fails to point to any authority that would require OAH to hear and determine the equivalent of a judgment on the pleadings and/or motion for summary adjudication of an issue prior to giving a petitioner the opportunity to develop a factual record at hearing. Although District casts its argument as jurisdictional, its contentions cannot be resolved without making factual findings. In light of the liberal notice pleading standards applicable to IDEA due process hearing requests and relaxed evidence rules, as a general matter, sufficiently pleaded due process hearing requests should proceed to hearing and parties must be allowed an opportunity to make a record. Accordingly, District's motion is denied.

IT IS SO ORDERED.

Dated: May 27, 2011

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge (acting)
Office of Administrative Hearings