

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ROMOLAND SCHOOL DISTRICT.

OAH CASE NO. 2010101007

ORDER DENYING MOTION TO  
DISMISS

On October 19, 2010, Student filed a due process hearing request (complaint) naming District as the respondent. The complaint alleged one issue: "Did District violate Parent and student's Procedural rights by not timely providing Parent with student's records and thereby denied FAPE?"

On November 2, 2010, District filed a Motion to Dismiss and Request for Sanctions. On November 5, 2010, Student filed an opposition.

District's Motion contends that it did in fact provide Student's records, and that the complaint was therefore filed in bad faith. The Motion also contends that Student was previously exited from special education, and therefore lacks standing to enforce the procedural protections of the IDEA. Student's Opposition contests the factual assertions presented in District's 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, 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.

Dated: November 08, 2010

/s/

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JUNE R. LEHRMAN

Administrative Law Judge

Office of Administrative Hearings