

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CHINO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011010651

ORDER DENYING MOTION TO
DISMISS

On January 24, 2011, Student's parent acting on behalf of Student (Student) filed a due process hearing request (complaint) naming Chino Valley Unified School District (District). On January 26, 2011, the District filed a notice of insufficiency. On January 27, 2011, the Office of Administrative Hearings (OAH) issued an order finding that the complaint was sufficient. On January 28, 2011, Student filed an amended complaint. On February 2, 2011, the District filed a response to the complaint and a motion to dismiss.

Student's initial complaint alleged that the District failed to timely produce pupil records after a request was made by Student's parent. The amended complaint alleges that on January 24, 2011, the District produced some but not all of the requested records.

In the motion to dismiss, the District argues that Student's parent has not alleged a denial of a free appropriate public education because of any failure to produce the records in a timely fashion. The District also argues that all records which the District is required to produce have been produced.

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: February 23, 2011

/s/

SUSAN RUFF

Administrative Law Judge

Office of Administrative Hearings