

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VACAVILLE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011061218

ORDER GRANTING DISTRICT'S
MOTION TO DISMISS ISSUES THREE
AND FIVE AND PORTIONS OF
ISSUES ONE AND TWO

On June 27, 2011 Parent on behalf of Student (Student) filed a Due Process Hearing Request¹ (complaint) naming the Vacaville Unified School District (District) as respondent.

On July 20, 2011, the District filed a Notice of Insufficiency (NOI) as to the complaint. On July 20, 2011, OAH issued an Order of Determination of Sufficiency of Due Process Complaint (July 20, 2011 Order) which dismissed allegations in Issues One and Two relating to Student's failing grades and Issue Three; and also found Issue Five as not sufficient. Student was granted leave to file an amended complaint.

On July 26, 2011, Student filed an amended complaint which is identical to his original complaint. On August 24, 2011, the District filed a letter requesting OAH to find the amended complaint insufficient on grounds that Student has merely refiled the same pleading. In reality, the District is requesting that OAH dismiss portions of Issues One, Two and Three ,plus Issue Five based on the July 20, 2011 Order. Thus, District's letter motion will be treated as a motion to dismiss rather than an NOI.

Accordingly, the District's motion to dismiss is hereby GRANTED.

ORDER

1. The allegations contained in Issues 1 and 2 pertaining to Student's failing grade, and in Issue 3 pertaining to discrimination, violation of constitutional rights, and divulging confidential information, are dismissed as issues for hearing.

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

2. Issue 5, which is insufficiently pled under Title 20 United States Code section 1415(c)(2)(D) as stated in the July 20, 2011 Order, is hereby dismissed..

Dated: August 24, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings