

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

REDLANDS UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011081119

ORDER DENYING MOTION TO
DISMISS

On September 6, 2011, Student's attorney filed a motion to dismiss all claims related to Student's March 4, 2010, March 2, 2011 and April 15, 2011 independent education plan (IEP) (Motion) on the ground that no actual controversy exists and that the issues alleged in the complaint are not ripe for hearing. Student's motion was not supported by a declaration under penalty of perjury or any authenticated evidence. On September 9, 2011 District filed an opposition, which was also not supported by a declaration under penalty of perjury or authenticated exhibits.

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. Student may assert factual defenses at hearing. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

Dated: September 13, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings