

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMPLETON UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013110477

ORDER DENYING MOTION TO
DISMISS

Student filed a request for due process (complaint) with the Office of Administrative Hearings (OAH) on November 14, 2013. Templeton Unified School District (Templeton) filed a motion to dismiss the complaint on December 4, 2013, on the ground that the issue of whether Templeton failed to provide Student's parents with an assessment plan upon their request was moot. Templeton did not support the motion with a declaration under penalty of perjury establishing facts, although it offered two unauthenticated exhibits, including a copy of the complaint. Student filed an opposition on December 6, 2013.

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. Templeton fails to point to any authority that would require OAH to hear and determine the equivalent of a motion for summary adjudication of an issue prior to giving a petitioner the opportunity to develop a factual record at hearing. Here, the time for District to file a notice of insufficiency has passed, such that OAH is required to treat the complaint as sufficient. In light of the liberal notice pleading standards applicable to IDEA due process hearing requests, as a general matter, sufficiently pleaded due process hearing requests should proceed to hearing.

Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

Dated: December 9, 2013

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings