

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PASADENA UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013120649

ORDER DENYING MOTION TO
DISMISS

On December 8, 2013, Pasadena Unified School District (District) filed a request for due process (complaint) On January 6, 2014, Student filed a motion for summary judgment (motion), supported by an affidavit, requesting that District's complaint be dismissed in its entirety, On January 9, 2014, District filed an opposition. Student did not file a reply.

District's complaint lists two issues. First, District requests a determination that its assessments were legally appropriate and, thus, Student is not entitled to independent educational assessments at District's expense. Second, affirmation that the initial individualized education program (IEP) team determination that Student was not eligible for special education services was correct.

Student asserts that the request for IEE's was made months before the District's due process filing. Therefore, the complaint must be dismissed because it was not timely filed, as the applicable statutes required

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: January 14, 2014

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings