

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MORENO VALLEY UNIFIED SCHOOL  
DISTRICT, CALIFORNIA SCHOOL FOR  
THE DEAF.

OAH CASE NO. 2014020430

ORDER DENYING MOTION TO  
DISMISS

On February 11, 2014, Student filed a Due Process Hearing Request (complaint) naming Moreno Valley Unified School District (District) and California School for the Deaf (CSFD) as respondents. The complaint requested independent educational evaluations as its first issue. The second issue alleged was dismissed by the Office of Administrative Hearings (OAH) on March 7, 2014. On March 10, 2014, District filed a motion to dismiss (Motion) the remaining issue, alleging that the issue is moot, and CSFD joined in District's Motion. On March 13, 2014, Student filed an opposition. As discussed below, the motion is denied.

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. District contends Student's claim regarding independent educational evaluations is moot because District has, contrary to Student's allegation in her complaint, agreed to provide independent educational evaluations at public expense. 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.

DATE: March 14, 2014

/s/

KARA HATFIELD  
Administrative Law Judge  
Office of Administrative Hearings

