

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

NEWPORT-MESA UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015110472

ORDER DENYING MOTION TO
DISMISS

On November 13, 2015, Newport-Mesa Unified School District filed a Request for Due Process Hearing complaint naming Student.

On November 23, 2015, Parent on behalf of Student filed a Request for Dismissal of District's complaint citing alleged factual inaccuracies in District's complaint. On November 30, 2015, District filed an opposition to Student's request. On December 1, 2015, Student filed a clarification of her request for dismissal, again citing alleged factual misrepresentations offered by District.

Although Office of Administrative Hearings 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, Student's request 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: December 2, 2015

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings