

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

VISALIA UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011031428

ORDER DENYING STUDENT'S
MOTION TO DISMISS

On April 4, 2011, Parents on behalf of Student (Student) filed a motion to dismiss the due process request (complaint) filed by the Visalia Unified School District (District). The motion requests that OAH dismiss the complaint based on the merits. Attached to the motion are several exhibits as evidential support for the motion. In effect, Student is requesting that OAH grant summary judgment as to the complaint. On April 6, 2011, the District filed an opposition.

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: April 7, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings