

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CENTINELA VALLEY UNION HIGH  
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011110276

ORDER DENYING STUDENT'S  
MOTION TO DISMISS

BACKGROUND INFORMATION

On November 3, 2011, the Centinela Valley Union High School District (District) filed a Request for Due Process Hearing (complaint), naming Student as the respondent. In its complaint, the District explains that it has reason to suspect that Student, who is not presently eligible for special education and related services, may be a child with a disability. The District states that it provided Student's mother (Mother) with a comprehensive assessment plan but that Mother has not consented to the assessment. The District therefore requests an order from the Office of Administrative Hearings (OAH) that it may conduct an initial assessment of Student without Mother's consent.

Student filed an opposition to the District's motion on November 9, 2011. Student states that Mother does not want him to be assessed for special education eligibility. Rather, she prefers that the District complete a section 504 plan for Student that addresses his behavior and discipline issues. Student also states that the District has no legal right to compel him to accept special education services by means of a due process hearing.

On November 15, 2011, the District filed an opposition to Student's motion to dismiss. The District points out that, contrary to Student's assertion, it is not attempting to compel Student to receive special education services. Rather, it is complying with its legal obligation to search for, locate, identify, and assess students who may have a disability that makes them eligible for special education. The District seeks to assess Student to determine if he is one of those students.

DISCUSSION

Student is correct that the District has no legal right to compel him to accept special education services. However, Student has misinterpreted the purpose of the District's due process complaint. The District seeks only to assess Student. It is following proper procedures under both federal and state law by filing a due process complaint to obtain an

order from OAH that it may do so since Mother has declined to give her consent to the assessment. (20 U.S.C. § 1414(a)(1)(D)(ii)(I); 34 C.F.R. § 300.300(a)(3)(i); Ed. Code, § 56321, subd. (c)(2).)

ORDER

Student's Motion to Dismiss the District's due process complaint is denied.

Dated: November 17, 2011

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings