

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PETALUMA JOINT UNION HIGH
SCHOOL DISTRICT.

OAH CASE NO. 2013020057

ORDER DENYING MOTION TO
DISMISS

On January 31, 2013, Parents on behalf of Student filed a due process hearing request (complaint) naming the Petaluma Joint Union High School District (District).

On February 6, 2013, District filed a motion to dismiss Student's complaint on the ground that the allegation of Student's birthdate is false, that Student is in reality over 18 years of age, and that Parents lack standing to bring this action. No opposition has been received.

APPLICABLE LAW

Although OAH will grant motions to dismiss allegations that are facially outside of the Office of Administrative Hearings (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.

ANALYSIS

Here, the motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits. District's motion relies upon uncertified, unauthenticated copies of a birth certificate abstract and school records of Student purporting to recite a date different from that alleged.

In order to obtain the relief request, Parents will be required to prove their right to such relief at hearing. Such a showing must include that Parents hold educational rights or held educational rights during the applicable time period. District's motion to dismiss requires a factual determination of disputed facts similar to that required for a summary judgment motion.

The IDEA and the California Education Code do not provide for summary adjudication or summary judgment. Accordingly, District's motion to dismiss Student's complaint is denied.

IT IS SO ORDERED.

Dated: February 14, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings