

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

WALNUT VALLEY UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013110878

ORDER DENYING MOTION TO  
DISMISS

On January 27, 2014, Student filed a request to vacate District's due process complaint (Motion). District did not file an opposition. The Motion will be treated as a Motion to Dismiss.

Although the Office of Administrative Hearings (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, and incorrect parties.), 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. Further, Student improperly seeks to add issues to the District's complaint. District's complaint seeks a determination that its 2013 initial assessment was appropriate. If Student wishes OAH to consider the additional issues set forth in her Motion, such as that Student be placed on an individualized education program, that appropriate services and accommodations be provided, and that Student be reimbursed for an independent neuropsychological evaluation and related expenses, Student must file her own due process complaint. Student may seek a mediator's assistance for filing a due process complaint and review OAH's website, [http://www.dgs.ca.gov/oah/Special Education.aspx](http://www.dgs.ca.gov/oah/SpecialEducation.aspx), for additional information and proper procedures.

Accordingly, the Motion is denied. All dates currently set in this matter are confirmed.

ORDER

Student's Motion to Dismiss District's due process complaint in the above-entitled matter is denied. The matter will proceed as scheduled.

IT IS SO ORDERED.

Dated: February 03, 2014

/s/

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SABRINA KONG  
Administrative Law Judge  
Office of Administrative Hearings