

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CHARTER OAK UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2014010237

ORDER DENYING MOTION TO  
DISMISS

On January 8, 2014, Student's parent on behalf of Student (Student) filed a request for a due process hearing (complaint) naming the Charter Oak Unified School District (District). On January 21, 2014, the District filed a motion to dismiss Student's complaint. On January 24, 2014, Student filed an opposition to that motion.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (such as civil rights claims), special education law does not provide for a summary judgment procedure. Here, the District's motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits. There is no provision in special education law for such a motion. Instead, the law requires an evidentiary hearing to decide disputed facts.

At one point in its motion, the District indicated that it was "disappointed" that Student's attorney recommended that Student waive the resolution session. However, the District's motion does not appear to be based on the parent's refusal to participate in a resolution session. Instead, the motion seeks a ruling on the merits of the case.

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

IT IS SO ORDERED.

Dated: January 27, 2014

/s/

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SUSAN RUFF  
Administrative Law Judge  
Office of Administrative Hearings