

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TWIN RIVERS UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014060731

ORDER DENYING MOTION TO
DISMISS

On June 12, 2014, Student filed a Request for Mediation and Due Process Hearing (complaint), naming Twin Rivers Unified School District as the respondent.

On July 15, 2014, District filed a Motion to Dismiss. OAH has not received a response to the motion from Student.

APPLICABLE LAW

Parents have the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) OAH has jurisdiction to hear due process claims arising under the Individuals with Disabilities Education Act (IDEA). (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029 [hereafter *Wyner*].)

DISCUSSION AND ORDER

Student’s complaint alleges that the instruction and services related to reading provided by District are not adequate, and Student seeks a one-to-one aide and tutoring as remedies. Although Student’s complaint makes no mention of dates or specific time periods, the complaint is sufficient to permit District to respond to the complaint and work with the family to resolve the dispute. As stated in the Order of Determination of Sufficiency of Due Process Complaint dated June 30, 2014, any details regarding the allegation can be clarified during the prehearing conference.

District, in its Motion to Dismiss, requests that Student’s complaint be “partially dismissed” because Student released all claims against District through the end of the 2013-2014 school year, including the 2014 extended school year, by a fully executed Settlement Agreement dated December 13, 2013. A copy of the settlement agreement, which

related to the consolidated matters in cases filed by Student and District in 2013, is attached to District's motion. District's motion requests that OAH dismiss Student's allegations relating to any events prior to the start of the 2014-2015 school year.

Although OAH will grant motions to dismiss allegations/claims 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, specifically, what time period is covered by Student's complaint. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: August 25, 2014

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings