

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PALOS VERDES PENINSULA UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2016010552

ORDER DENYING MOTION TO
DISMISS

On February 9, 2016, District filed a motion to dismiss Student's due process complaint filed with the Office of Administrative Hearings. Student filed an opposition on February 9, 2016. District filed a reply to Student's opposition on February 12, 2016.

Although 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, incorrect parties), special education law does not provide for a summary judgment procedure.

Here, District's motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits. Specifically, District contends that Student's claims are barred by the two-year statute of limitations because the basis of Student's claim is that District's 2012 assessments were inappropriate. Student argues the reference to the 2012 assessment results was background information, and he challenges whether District offered a FAPE over the past two years using old and incorrect assessment data. These issues require factual findings by the hearing administrative law judge at the time of hearing. OAH does not grant summary judgments. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: February 16, 2016

DocuSigned by:

Adrienne L. Krikorian

ADRIENNE L. KRIKORIAN

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Office of Administrative Hearings