BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MT. DIABLO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2019050382 ORDER DENYING MOTION FOR SUMMARY JUDGEMENT AND DENYING REQUEST FOR EXPERT FEE PAYMENT

On May 20, 2019, Student filed a motion for summary judgment requesting private placement. The same day, Student filed a second motion requesting OAH order Mt. Diablo to pay the fees and expenses Parent incurred gathering medical and assessment documentation on Student. On May 21, 2019, Mt. Diablo Unified School District filed oppositions to both motions.

Summary Judgement

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

Payment of Expert Fees

Student also requests Mt. Diablo be ordered to pay the fees and expenses incurred by Parent in developing her case before OAH. Mt. Diablo opposed Student's request. Student provided no authority that would allow OAH to order Mt. Diablo to pay the requested fees and expenses prior to a decision on the merits of the case and a finding of a prevailing party. This motion is denied.

ORDER

1. Student's Motion for Summary Judgement ordering private school placement is denied.

2. Student's motion to order Mt. Diablo to pay Student's expert fees and expenses is denied.

IT IS SO ORDERED.

DATE: May 28, 2019

DocuSigned by:
Tiffany Gilmartin
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TIFFANY GILMARTIN
Administrative Law Judge
Office of Administrative Hearings