BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
ANAHEIM CITY SCHOOL DISTRICT,	OAH Case No. 2017010041
v.	ORDER DENYING MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT
PARENT ON BEHALF OF STUDENT.	

On December 28, 2016, District filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming Student. District seeks to have Student assessed without Parent's consent and without the limitations or conditions placed on the assessment by Parent.

On January 5, 2017, Student filed a motion to dismiss arguing the merits of District's claims. The motion was denied by OAH on January 18, 2017 on the grounds that the motion sought a ruling on the merits of the dispute, which could not be determined on a motion.

On January 19, 2017, Student filed a second motion to dismiss arguing the merits of the allegations in the complaint. On January 24, 2017, OAH treated the motion as a request for reconsideration and denied the motion.

On March 1, 2017, Student filed a motion to dismiss, again arguing the merits of the District's case, and that District's issue was moot because it was resolved at mediation. On March 8, 2017, OAH denied Student's motion on the grounds that it sought a ruling on the merits of District's claims.

On March 10, 2017, Student filed a motion for reconsideration, which OAH denied on March 13, 2017.

On March 23, 2017, Student filed a "Request for District to Proceed with Student's Assessment, IEP and ADA requests or Vacate their OAH complaint." OAH interprets Student's request as a motion to dismiss and motion for summary judgment. Student argues that District's complaint should be vacated because it has refused to conduct a proper assessment in accordance with Student's disability and medical needs.

On March 24, 2017, District filed an opposition. District argues that while Parent has signed an assessment plan, Student has failed to appear for any assessment and Parent has resisted scheduling any assessment. The motion should be denied because there is a factual

dispute as to whether parental consent has been given and whether District will be permitted to assess Student.

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, Student's motions are denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: March 24, 2017

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LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings