BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: BUENA PARK SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015010467 ORDER DENYING MOTION TO DISMISS

On April 23, 2015, Student filed a motion to dismiss District's case (Motion) on the grounds District may not assess Student within one year of a previous assessment. The Motion also requests an order requiring District to fund independent educational evaluations for Student. On April 27, 2015, District filed an opposition.

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. The Motion is tantamount to a demurrer or motion for summary judgment. OAH does not decide cases on the pleadings. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: April 28, 2015

/S/
MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings