BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: EDUCATION RIGHTS HOLDER ON BEHALF OF STUDENT, v. VAL VERDE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015050766 ORDER DENYING MOTION TO DISMISS

On May 14, 2015, Student's father, education rights holder, on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing naming the Val Verde Unified School District. The complaint contains a single issue: whether Val Verde deprived Student of a free appropriate public education when it refused to conduct a re-assessment of Student pursuant to parental request.

On May 19, 2015, Val Verde filed a motion to dismiss Student's complaint on grounds that Student had waived any and all education related claims he may have until June 30, 2015, pursuant to a written settlement agreement dated November 26, 2013.[1]

On May 22, 2015, Student filed an opposition.

[1] The settlement was in settlement of OAH Case Number 2013110700.

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 and is an amount to being a motion for summary judgment. It is essential that testimony and evidence be presented in order to determine Val Verde's defense. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.[2]

IT IS SO ORDERED.

DATE: May 29, 2015

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings

[2] This ruling does not preclude the parties from seeking to bifurcate this issue.