BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: CARLSBAD UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017050174 ORDER DENYING MOTION TO DISMISS

On June 1, 2017, Student filed a motion to dismiss with the Office of Administrative Hearings stating Parent signed the assessment plan therefore the issue for hearing is moot. On June 6, 2017, Student filed a request for dismissal for mootness including a copy of the signed assessment plan. On June 7, 2017, District filed an opposition stating although Parent signed the assessment plan, Parent had not made Student available for the assessment.

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. Although Student provided a copy of the signed assessment plan, District's complaint is not limited to Parent signing the assessment plan, but also Parent making Student available for said assessment. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: June 08, 2017

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Peter Paul Castillo
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for
LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings