BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. EMPIRE SPRINGS CHARTER SCHOOL.	OAH Case No. 2019060591 ORDER DENYING MOTION TO DISMISS

On June 24, 2019, Empire Springs Charter School filed a Motion to Dismiss Student's Due Process Hearing Request with the Office of Administrative Hearings. On June 27, 2019, Student filed an opposition.

APPLICABLE LAW AND DISCUSSION

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 to dismiss is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits. Specifically, a factual dispute exists as to whether Empire Springs Charter's decision to not enroll Student for the 2019-2020 school year, in light of Empire Springs Charter's ongoing assessment of Student to determine his eligibility for special education and related services, was based on disciplinary or non-disciplinary reasons. (20 U.S.C. § 1415(k)(5)(A).) A determination of this factual dispute requires an evidentiary hearing. Accordingly, Empire Springs Charter's motion to dismiss is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: June 27, 2019

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Rommel P. Cruz
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ROMMEL P. CRUZ
Administrative Law Judge
Office of Administrative Hearings