BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT	OAH Case No. 2015040382 ORDER DENYING MOTION TO DISMISS

On March 27, 2015, Student filed a request for a due process hearing. On May 6, 2015, District filed a motion to dismiss Student's complaint in its entirety. On May 11, 2015, Student filed an opposition. On May 14, 2015, District filed a reply. The parties did not file any supporting declarations.

District contends that Student is a non-conserved adult over the age of 18, and that any obligation to provide him a free appropriate public education terminated upon his voluntary and unilateral decision at the end of twelfth grade (2011-2012 school year) to disenroll and exit special education. Student contends that District failed to provide him a FAPE between March 2013 and March 2015 for several reasons.

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, District's motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits, which is only appropriate after the hearing officer makes findings of fact. Accordingly, the motion is denied. All dates previously set are confirmed.

IT IS SO ORDERED.

DATE: May 15, 2015

/s/
CAROLINE A. ZUK
Administrative Law Judge
Office of Administrative Hearings