BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SUMMIT PUBLIC SCHOOLS: DENALI, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018070224 ORDER DENYING REQUEST FOR OFFICIAL NOTICE

On September 19, 2018, Counsel for Student served and attempted to file a request that the undersigned take official notice of California Education code section 56324, subdivision (b), which sets forth the qualifications of personnel conducting health assessments for Students in the state of California.[1] That request was re-filed on September 21, 2018. On September 20, 2018 counsel for Summit-Denali objected to the request on the grounds that it was tantamount to raising an issue not previously raised in hearing.

No specific state or federal statute or regulation governs the taking of official notice in special education proceedings in California. When official notice is taken, OAH generally considers the California evidence code sections governing judicial notice in evaluating the merits of a request. Although Student's counsel bases her request of California Government Code section 11515, that code section does not pertain to special education hearings. Counsel asks that the code section be officially noticed pursuant to California Evidence Code section 452, subdivision (h) which allows judicial notice, or in the context of an administrative hearing, official notice, for matters upon which there can reasonable basis for dispute and which are subject to immediate and accurate determination. Generally, requests pursuant to this code section are made to establish commonly known facts to avoid the necessity of proof of dates, place locations on a map or similarly easily verifiable facts.

Official notice is not required for every statute considered in the course of evaluating a case pending before the Office of Administrative Hearings. Here, the request for official notice is unnecessary and is therefore DENIED.

DATE: September 27, 2018

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Penelope Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings

[1] Student originally served and attempted to file the request on September 19, 2018 however the Office of Administrative Hearings' electronic filing system was not functioning properly that day. Student's counsel was notified o the problem. She filed the document again on September 21, 2018.