BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT AND LAKE ELSINORE UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013060510 ORDER DENYING STUDENT'S MOTION TO STRIKE NOTICE OF INSUFFICIENCY

On June 11, 2013, Student filed a Request for Due Process Hearing (complaint) naming San Luis Coastal School District (SLC) and Lake Elsinore Unified School District.

On June 24, 2013, SLC filed a notice of insufficiency (NOI). On June 24, 2013, OAH issued an Order finding Student's complaint sufficient.

On June 25, 2013, Student filed a Motion to Strike the NOI filed by SLC on the grounds Student had no opportunity to respond and Student would be prejudiced by delays in the due process procedures if the complaint was found insufficient.

There are no provisions governing a motion to strike in special education due process hearings. Therefore, OAH looks to the California Code of Civil Procedure for guidance. Section 436 of the Code of Civil Procedure authorizes a court to strike "any irrelevant, false, or improper material inserted in any pleading . . . or any pleading not drawn or filed in conformity with the laws of this state, a court rule or an order of the court." Student's Motion to Strike is not authorized by Code of Civil Procedure section 436. In any event, Student's complaint was determined to be sufficient and there is no delay in the proceedings by virtue of having resolved the NOI. Accordingly, all issues presented in Student's Motion to Strike are moot. Student's Motion to Strike is denied.

SO ORDERED

Dated: July 01, 2013

/s/
MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings