

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SANTA ROSA CITY SCHOOLS,

v.

STUDENT.

OAH CASE NO. 2014040994

ORDER DENYING STUDENT'S
MOTION TO DISMISS AND/OR
MOTION FOR SUMMARY
JUDGMENT

On April 21, 2014, Santa Rosa City Schools (Santa Rosa) filed a Request for Due Process Hearing (complaint), naming Student as the respondent. Santa Rosa's complaint seeks an order allowing Santa Rosa to proceed with Student's triennial assessment, according to an assessment plan dated March 19, 2014, without parental consent.

On April 24, 2014, Student filed a letter asking OAH to cancel the due process hearing because an assessment plan "has been delivered to the district and their lawyer." A purported copy of an executed assessment plan is attached to the letter. Student is not represented by counsel. Student's letter is the equivalent of a motion to dismiss the complaint or a motion for summary judgment and is deemed to be such a motion for the purpose of this order.

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 of Santa Rosa's allegation that Student did not consent to an assessment plan before the complaint was filed. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: April 25, 2014

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings