

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

SAN GABRIEL UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014050341

ORDER DENYING MOTION TO
DISMISS

On June 4, 2014, the San Gabriel Unified School District (San Gabriel) filed a motion to dismiss portions of Student's due process request. San Gabriel contends that a different educational agency was responsible for Student's education prior to August 2013. San Gabriel requests that the portions of Student's complaint based on events which occurred prior to August 2013, be dismissed. Student has not filed a response to the motion.

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, 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. San Gabriel wishes an adjudication regarding which educational agency was responsible for Student's education prior to August 2013. San Gabriel attaches declarations to its moving papers to support its position.

That factual issue must be decided after a hearing on the merits. It cannot be decided on a motion. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: June 10, 2014

/s/

SUSAN RUFF

Administrative Law Judge

Office of Administrative Hearings