

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024040570

ORDER DENYING MOTION TO DISMISS

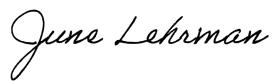
JULY 2, 2024

On June 25, 2024, San Diego Unified School District filed a motion to dismiss issues with the Office of Administrative Hearings. The motion argued that certain issues were moot because Parents withdrew consent to the provision of special education and related services for Student on August 18, 2023. On June 28, 2024, Student filed an opposition, arguing “the June 12, 2023 [individualized education program] made an offer of [a free appropriate public education] FAPE prior to the date that Student withdrew consent to special education services, and the subsequent withdrawal did not rescind District’s obligations on June 12, 2023.” On July 1, 2024, San Diego filed a response, arguing that IDEA claims are moot when the student no longer has a statutory right to receive a FAPE from the school district.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction such as, civil rights claims, section 504 claims, enforcement of settlement agreements, or incorrect parties, special education law does not provide for a summary judgment procedure. Here, the motion to dismiss is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits that requires a mixed factual and legal determination regarding both the dates of District's and Student's actions alleged above of, and their legal effect. Said determinations are not amendable to determination via motion practice.

Accordingly, the motion to dismiss is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "June Lehrman".

June Lehrman

Administrative Law Judge

Office of Administrative Hearings