BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: ANAHEIM CITY SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017010041 ORDER DENYING MOTION TO DISMISS

On December 28, 2016, District filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming Student.

On January 5, 2017, Student filed a Notice of Objections to District's Complaint with Good Cause Showing, alleging that the allegations in the complaint are without merit and misleading, that OAH cannot decide Student's medical needs or medically ordered accommodations, that District has discriminated against Student under the Americans with Disabilities Act, violated his rights under the California Education Code, and has no right to conduct its own medical assessment of Student. OAH interprets Student's Notice of Objections as a Motion to Dismiss. OAH received no response to Motion from District.

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, Student fails to point to any authority that would require OAH to hear and determine the equivalent of a motion for summary judgment prior to giving District the opportunity to develop a factual record at hearing. Student's Motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits, which is effectively a motion for summary judgment. The motion is therefore denied.

IT IS SO ORDERED.

DATE: January 18, 2017

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LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings