BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

and

CONEJO VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021020362

OAH CASE NUMBER 2021030817

ORDER DENYING CONEJO VALLEY'S MOTION TO DISMISS STUDENT'S ISSUES 6, 7, AND 8

JUNE 1, 2021

On May 25, 2021, Conejo Valley Unified School District filed with the Office of Administrative Hearings a motion to dismiss what Student numbered Issue 3 in his request for due process hearing. The Office of Administrative Hearings is called OAH. On May 28, 2021, Student filed an opposition. Although the Administrative Law Judge had not yet seen Student's response, filed in the late afternoon of May 28, 2021, at the time of the prehearing conference on May 28, 2021, the attorneys for both Conejo Valley and Student presented oral argument regarding Conejo Valley's motion.

Based on discussion with the parties during the prehearing conference, what Student numbered Issue 3 in his complaint was separated and numbered Issues 6, 7, and 8 and in the May 28, 2021 Order Following Prehearing Conference.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction such as civil rights claims, claims under Section 504 of the Rehabilitation Act of 1973, 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 for which determinations of fact, or determinations of mixed fact and law, are required. Accordingly, the motion to dismiss is denied. All dates currently set in this matter are confirmed.

Conejo Valley is not prohibited from asserting the arguments raised in its motion to dismiss as a defense during the due process hearing. And Student is not prohibited from asserting arguments raised in opposition to Conejo Valley's motion, including that Conejo Valley's defense fails because Conejo Valley did not assert this defense in its February 22, 2021 response to Student's complaint.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings