

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

GUARDIAN ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF  
EDUCATION, LOS ANGELES UNIFIED  
SCHOOL DISTRICT, CALIFORNIA  
DEPARTMENT OF EDUCATION,  
CALIFORNIA HEALTH AND HUMAN  
SERVICES AGENCY, CALIFORNIA  
DEPARTMENT OF MENTAL HEALTH,  
AND LOS ANGELES COUNTY  
DEPARTMENT OF MENTAL HEALTH.

OAH CASE NO. 2010110301

ORDER GRANTING MOTION TO  
DISMISS ISSUE TWO

On November 8, 2010, Student filed a Due Process Hearing Request (complaint) against the Los Angeles County Office of Education (LACOE), the Los Angeles Unified School District (LAUSD), California Department of Education (CDE), California Health and Human Services Agency (CHHS), California Department of Mental Health (CDMH), and Los Angeles County Department of Mental Health (LACDMH). On November 18, 2010, LACOE filed a Motion to Dismiss Issue Two, alleging that the Office of Administrative Hearings (OAH) does not have jurisdiction to hear this claim. On November 24, 2010, Student filed an opposition.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education” (FAPE), and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child;

or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to entertain claims based on other provisions of Federal and California law, such as Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 701 et seq.), the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101, et seq.), and the Unruh Civil Rights Act (Unruh Act) (Civ. Code, § 51 et seq.).

## DISCUSSION

In the present matter, Student alleges in Issue Two that the responding parties violated provisions of Section 504, ADA, Student's constitutional rights and the Unruh Act. OAH does not have jurisdiction to hear Student's claims in Issue Two. Accordingly, Issue Two is dismissed.

## ORDER

LACOE's Motion to Dismiss Issue Two is granted. The matter will proceed as to Issue One, and will proceed as presently scheduled.

Dated: November 30, 2010

/s/

---

PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings