

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011020588

ORDER GRANTING MOTION TO
DISMISS ISSUE TWO AND STRIKE
PROPOSED REMEDY

On February 16, 2011, Student filed a Request for Due Process Hearing (complaint), naming Los Angeles Unified School District as the respondent.

On March 2, 2011, District filed a Motion to Dismiss Issue and Strike Proposed Remedy (District's Motion) alleging that Issue Two is not within the Office of Administrative Hearings' (OAH) jurisdiction pursuant to California Education Code, section 56501(a). District also requests that OAH strike Student's proposed resolution to Issue Two, in which Student requests money damages. OAH received no response to District's Motion from Student.

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 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.). In addition, monetary damages are not relief available under the IDEA. (*Robb v. Bethel Sch. Dist #403* (2002) 308 F.3d 1047, 1051.)

DISCUSSION

Student's complaint alleges two issues. District challenges Issue Two that alleges District violated Section 504 by discriminating against Student on the basis of her disability. Issue Two does not involve a proposal to initiate or change Student's placement, a provision of FAPE, assessments or placement. Therefore, this issue is not within the jurisdiction of OAH. In addition, OAH lacks jurisdiction to grant monetary damages. Accordingly, District's Motion to Dismiss Issue Two and strike Student's remedy is granted.

ORDER

1. District's Motion to Dismiss is granted as to Issue Two.
2. District's Motion to Strike is also granted.
3. The matter will proceed as scheduled as to the remaining issue.

Dated: March 14, 2011

/s/

CLARA SLIFKIN
Administrative Law Judge
Office of Administrative Hearings