

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CHINO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011070225

ORDER CLARIFYING JURISDICTION
OVER CLAIMS

On July 6, 2011, Tania L. Whiteleather, Attorney for Student filed a Due Process Hearing Request (complaint) naming the Chino Valley Unified School District (District). On July 8, 2011, Joann Reilly, Administrator, West End SILPA filed a Notice of Insufficiency (NOI) on behalf of the District as to Student's complaint. District did not file a Motion to Dismiss in conjunction with its NOI. On July 14, 2011, the undersigned Administrative Law Judge determined that, except for Issue No. 4, the complaint was sufficient. Issue No. 4 was dismissed for insufficiency without prejudice. On July 18, 2011, Student filed a motion seeking clarification of the order of sufficiency regarding the jurisdiction of the Office of Administrative Hearings (OAH). OAH did not receive a response from District.

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 the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of title 42 United States Code, or the California Unruh Civil Rights Act (Unruh Act).

DISCUSSION & ORDER

Upon the filing of an NOI, OAH will examine the complaint for sufficiency of the claims on the face of the complaint. An NOI does not involve a determination of jurisdiction, which is more appropriately raised as an affirmative defense or addressed through a motion to dismiss. Here, Student's Issue No. 4 was:

Whether the District's actions, in denying FAPE to [Student] and his parents, and in failing to address and meet [Student's] unique educational needs, has denied [Student's] and his parents' rights under the American with Disabilities Act, Section 504, and the California Unruh Act and other State laws.

The undersigned determined the issue to be insufficiently pled. Student was granted 14 days to file an amended complaint. Student now seeks clarification of whether OAH has jurisdiction over claims involving the ADA, Section 504, the Unruh Act or other state civil rights statutes. OAH does not have jurisdiction over claims based upon the ADA, Section 504, the Unruh Act or other state civil rights statutes.

Dated: July 29, 2011

/s/

MICHAEL G. BARTH
Administrative Law Judge
Office of Administrative Hearings