

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT AND OXFORD
PREPARATORY ACADEMY.

OAH CASE NO. 2012070452

ORDER GRANTING IN PART AND
DENYING IN PART DISTRICT'S
MOTION TO DISMISS
ALLEGATIONS AND PROPOSED
RESOLUTIONS

On July 31, 2012, the Capistrano Unified School District (District), on behalf of itself and respondent Oxford Preparatory Academy (Oxford), filed a motion to dismiss (1) allegations and (2) proposed resolutions contained in Student's due process hearing request (complaint).¹ No opposition by Student has been received.

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

¹ In District's concurrent motion to dismiss Oxford as a party, District established that Oxford is a public school within District, and that District may therefore represent Oxford for purposes of a motion to dismiss. In a separate order issuing with this one, Oxford is dismissed as a party from this matter. In addition, District's July 30, 2012 combined motion to dismiss Oxford as a party and dismiss certain allegations of Student's complaint has been superseded by the separate filing of the same motions on July 31, 2012, and will not be ruled on. This order is limited to ruling on District's July 31, 2012 motion to dismiss allegations and proposed resolutions.

responsibility].) The jurisdiction of the Office of Administrative Hearings (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.) (Section 504), Section 1983 of Title 42 United States Code (Section 1983), or the Fourteenth Amendment of the U.S. Constitution (Fourteenth Amendment). Monetary damages are not a form of relief available under the IDEA. (*Robb v. Bethel School Dist. #403* (2002) 308 F.3d 1047, 1051.) However, where a person brings an action alleging a violation of the IDEA, the court is empowered to “grant such relief as [it] determines is appropriate.” (20 U.S.C. § 1415(i)(2)(C)(iii).)

DISCUSSION

District’s Motion to Dismiss Allegations

Student alleges that during her attendance in a kindergarten class at Oxford in 2011-2012, respondents failed to find Student eligible for special education under the IDEA, or for reasonable accommodations under Section 504, requiring Student’s mother (Mother) to accompany Student throughout the school day to provide regular catheterization after Student’s bladder surgery. The complaint alleges three claims, each of which references deprivation of the right to a free appropriate public education (FAPE) under the IDEA, as well as violations of Section 504, the Fourteenth Amendment, and Section 1983. In general the violations by District that are alleged to have occurred include: (1) failing to identify Student as eligible for special education, to provide Student with a FAPE, or to provide Student with reasonable accommodations, (2) discriminating against Student by failing to accommodate Student’s medical needs, and (3) requiring Mother to provide the medical and transportation services that Student should have received from respondents. District argues that OAH lacks jurisdiction to hear claims under Section 504, Section 1983 or the Fourteenth Amendment, and seeks to have the allegations of violation of these statutes dismissed from Student’s complaint, including Problem 2 in its entirety.

The jurisdiction of OAH is limited to matters relating to the identification, evaluation, or educational placement of the child, or the provision of a FAPE to such child under the IDEA and related state statutes. Its jurisdiction does not extend to determining whether a student was denied reasonable accommodations under Section 504, denied civil rights under Section 1983, or denied equal protection under the Fourteenth Amendment. Therefore, to the extent Problems 1, 2 or 3 assert claims under Section 504, Section 1983 or the Fourteenth Amendment, those portions of Problems 1, 2 and 3 are beyond OAH’s jurisdiction and dismissed.

However, District is not entitled to dismissal of Problem 2 in its entirety. Problem Two unambiguously alleges that the District violated the IDEA by ignoring Student’s need for catheterization. This claim is squarely within OAH jurisdiction, even if Problem 2 discusses this in part as resulting from “discrimination.” More importantly, OAH is required

to treat the allegations of an IDEA violation as sufficient because District did not file an NOI. A complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

In sum, to the extent Problems 1, 2, and 3 allege violations of Section 504, Section 1983, and the Fourteenth Amendment, those claims are dismissed. However, District is not entitled to dismissal of any claim in its entirety because each alleges a violation of the IDEA.

District's Motion to Dismiss Proposed Resolutions.

District characterizes Student's Problem 3 as a proposed resolution seeking Mother's lost wages as monetary damages for respondents having "forced Mother to be unemployed," rather than a cognizable claim. Problem 3 is not merely a remedy request, but is also a claim that District violated the IDEA by not providing a free education, as part of a FAPE. District seeks to have the proposed resolutions sought by Student for the violations alleged in Problem 2 (reimbursement for medical and hospitalization costs, punitive damages, damages for pain and suffering, etc.), and Problem 3 in its entirety, dismissed as proposed resolutions beyond OAH's authority to award.

As discussed above, Problem 3 and the proposed resolutions of Problem 2 and 3, are deemed sufficiently pleaded under the IDEA in the absence of a timely challenge to their sufficiency, and are not subject to dismissal. In addition, OAH has broad authority to grant equitable relief as a remedy for IDEA violations, and whether and to what extent OAH can award the damages sought by Student as compensation for the violations alleged cannot be determined without a hearing to weigh the conduct of both parties. District's motion to dismiss proposed resolutions is denied. District is free to argue at hearing that the resolutions sought by Student are either unavailable as a matter for law, or should not be awarded under the facts.

ORDER

1. District's motion to dismiss allegations and proposed resolutions from Student's complaint is granted in part and denied in part.
2. To the extent Problems 1, 2 and 3 assert claims under Section 504, Section 1983 or the Fourteenth Amendment, those portions of Problems 1, 2 and 3 are dismissed.
3. District's motion to dismiss the proposed resolutions for Problems 2 and 3, and all of Problem 3, is denied.
4. The matter will proceed only as to alleged violations of the IDEA.

Dated: August 09, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings