

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF  
EDUCATION and SOLEDAD  
ENRICHMENT ACTION CENTER.

OAH CASE NO. 2012090852

ORDER GRANTING MOTION TO  
DISMISS

On September 25, 2012 Parent on behalf of Student (Student) filed a due process hearing request (complaint) <sup>1</sup> naming the Los Angeles County Office of Education (LACOE) and the Soledad Enrichment Action Center (SEAC). On October 5, 2012, LACOE filed a notice of insufficiency (NOI) as to Student's complaint, and a motion to dismiss portions of the complaint.<sup>2</sup> Student did not file an opposition to the motion to dismiss.

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

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 United States Code section 1415(b)(7)(A).

<sup>2</sup> The NOI will be addressed in a separate order. On October 9, 2012, LACOE filed another motion to dismiss identical to that contained in the pleading it filed on October 5, 2012, which was entitled “Respondent [LACOE]’s Notice of Insufficiency and Motion to Dismiss.” LACOE also filed another NOI with identical language to that in its filing of October 5, 2012. These later-filed pleadings will not be considered as they duplicate the filing of October 5, 2012.

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.), section 1983 of Title 42 United States Code, and Civil Code sections 51 et seq, also known as the Unruh Act.

### DISCUSSION AND ORDER

In the present matter, Student contends that LACOE violated provisions of section 504, and section 1983, as well as the Unruh Act. In application of the authority cited above, OAH does not have jurisdiction to adjudicate these alleged violations, and accordingly LACOE's motion to dismiss is granted as to these claims.

IT IS SO ORDERED.

Dated: October 15, 2012

/s/

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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings