

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014060963

ORDER GRANTING MOTION TO
DISMISS AND GRANTING MOTION
TO QUASH

On June 18, 2014, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH), naming Oakland Unified School District (District) as respondent. Student's complaint alleges seven individual issues on behalf of Student regarding violations of the Individuals with Disabilities Education Act (IDEA). In section VI of the complaint, Student alleges "systemic claims" on behalf of "Students and other students with disabilities enrolled in District or in a school chartered by District" under the IDEA, the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act of 1973 (Section 504). Student proposed relief includes the development and implementation of a plan to remedy District's systemic deficits alleged in the complaint.

On July 16, 2014, Student filed a Request for Special Interrogatories directed to District.

On July 16, 2014, District filed a Motion to Dismiss and Motion to Quash. District's Motion to Dismiss seeks an order dismissing all of Student's "systemic" claims, including claims under Section 504 because they outside OAH's jurisdiction. District's Motion to Quash requests an order quashing Student's Request for Special Interrogatories because pretrial discovery is not authorized in due process proceedings and seeks discovery on Student's improper "systemic" claims.

On July 18, 2014, Student filed opposition to District's motions. Student acknowledges OAH precedent for dismissing systemic claims for lack of jurisdiction, but argues that no court decision has determined that systemic claims of a student and/or claims on behalf of similarly situated students fall outside of OAH jurisdiction in a due process proceeding. Student argues that no law specifically precludes the use of prehearing interrogatories and Student cannot confront, cross-examine and identify all necessary witnesses and present all of his evidence at hearing without some limited pretrial discovery on his systemic claims.

For the reasons set forth below, District's motions are granted.

APPLICABLE LAW AND DISCUSSION

Motion to Dismiss Systemic Claims

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.) Special education due process hearing procedures extend to a student’s parent or guardian, to the student under certain conditions, and to the public agency involved in any decisions regarding a pupil. (Ed. Code, § 56501, subd. (a).) 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 may dismiss a matter in its entirety, or one or more claims, where it is evident from the face of the complaint that the alleged issues fall outside of OAH jurisdiction or the pleaded facts cannot sustain a claim. Such circumstances may include, among other things, complaints that assert civil rights claims or claims against an entity that cannot be legally responsible for providing special education or related services under the facts alleged.

Section VI of Student’s complaint alleges “systemic claims” made on behalf of unidentified students under the IDEA, the ADA and Section 504. As noted above, OAH’s jurisdiction is limited to due process proceedings between a student, parent or guardian and the public agency involved in the education of the student, that seek to provide relief for the particular student with respect to the matters enumerated in Education Code section 56501, subdivision (a)(1)–(4). OAH’s jurisdiction does not extend to claims that seek address structural and systemic District-wide deficits sought by Student here. In addition, issues related to a violation of the ADA and Section 504 are not within OAH’s jurisdiction. District’s motion to dismiss the systemic claims in Section VI of the complaint is therefore granted and those claims are dismissed.

Student's Request for Interrogatories

A party to a due process hearing under the Individuals with Disabilities Education Act (IDEA) has the right to present evidence and compel the attendance of witnesses in “a hearing conducted pursuant to subsection (f) or (k)” of section 1415 of title 20 of the United States Code. (20 U.S.C. § 1415(h); see also Ed. Code, § 56505, subd. (e).)

To guarantee parents the ability to make informed decisions about their child's education, the IDEA grants parents of a child with a disability the right to examine all relevant records relating to their child's “identification, evaluation and educational placement.” (20 U.S.C. §1415(b)(1).) Parents may request copies of their child's educational records at any time, and are entitled to receive those copies within five business days of their request. (Ed. Code § 56504.) Education records under the IDEA are defined by the federal Family Educational Rights and Privacy Act (FERPA) to include “records, files, documents, and other materials” containing information directly related to a student, other than directory information, which “are maintained by an educational agency or institution or by a person acting for such agency or institution.” (20 U.S.C. § 1232g(a)(4)(A); Ed.Code, § 49061, subd. (b).) Pupil or education records do not include “records of instructional, supervisory, and administrative personnel...which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.” (20 U.S.C. § 1232g(a)(4)(B)(i); Ed. Code, § 49061, subd. (b).)

In addition to the parents' right to copies of educational records within five business days of a request, a party to a due process proceeding is entitled to be served, five business days before the hearing, with copies of all the documents the other party or parties intend to use at the hearing, and a list of all witnesses intended to be called with a statement of the general areas of their expected testimony. (Ed. Code, § 56505, subd. (e)(7).)

Student's Request for Interrogatories consists of 22 special interrogatories seeking discovery on his systemic claims. District correctly argues that special education law does not contain any provisions authorizing pretrial discovery. Specifically, there is no provision in special education law or regulations which permit a party to serve prehearing interrogatories. The applicable statutes and regulations securing the rights to present evidence and compel the attendance of witnesses all relate to the hearing itself. Education Code section 56505, subdivision (e)(7), provides for disclosure of witnesses and exhibits at least five business days prior to the hearing, but this provision does not require a party to disclose anything other than the witnesses and exhibits the producing party intends to use during the due process hearing. Further, the interrogatories are not an attempt to obtain Student's educational records. Here, Student improperly seeks information pertaining to alleged systemic District-wide deficits pertaining to all special education students within the District. Accordingly, District's motion to quash is granted.

ORDER

1. District's Motion to Dismiss Student's systemic claims in Section VI (A) and (B) of the complaint is granted. The matter will proceed as scheduled as to Student's individual claims made under the IDEA.
2. District's Motion to Quash Student's Request for Special Interrogatories is granted.

DATE: July 22, 2014

/s/

LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings