

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

GUARDIANS ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION AND LOS ANGELES
COUNTY DEPARTMENT OF MENTAL
HEALTH.

OAH CASE NO. 2010120475

ORDER GRANTING MOTION TO
DISMISS ISSUE TWO

On December 13, 2010, Student filed a Request for Due Process Hearing (complaint) against the Los Angeles County Office of Education (LACOE) and Los Angeles County Department of Mental Health (LACDMH). On December 22, 2010, LACOE filed a Motion to Dismiss Issue Two for being outside the scope of the Office of Administrative Hearings' (OAH) jurisdiction. OAH has not received a response to the Motion to Dismiss from Student or LACDMH.

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.), Section 1983 of Title 42 United States Code, or the Americans with Disability Act (ADA) (Title 42 U.S.C. §§ 1201, et seq.).

DISCUSSION

Regarding Issue Two, OAH does not have jurisdiction to hear Student's claims that LACOE or LACDMH violated Section 504, Section 1983, or the ADA. Accordingly, Issue Two is dismissed.

ORDER

LACOE's Motion to Dismiss Issue Two is granted. The matter shall proceed as scheduled as to Issue One.

Dated: December 30, 2010

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings