

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT, LOS ANGELES COUNTY  
OFFICE OF EDUCATION AND  
CALIFORNIA DEPARTMENT OF  
EDUCATION.

OAH CASE NO. 2011030120

ORDER GRANTING LOS ANGELES  
COUNTY OFFICE OF EDUCATION'S  
MOTION TO DISMISS

BACKGROUND

On February 25, 2011, Student filed a Request for Due Process Hearing (complaint), naming the Los Angeles Unified School District, the Los Angeles County Office of Education (LACOE) and the California Department of Education. The Office of Administrative Hearings (OAH) found Student's complaint sufficient in an order issued March 9, 2011.

On March 18, 2011, LACOE filed a motion to dismiss issue two of Student's complaint, contending that the issue was beyond the jurisdiction of OAH. Student's claim two asks OAH to decide:

Whether the actions of any Respondent, in failing in exercise responsibility for the provision of FAPE to [Student] upon her enrollment at Devereux, Texas, has resulted in a denial of her rights under ADA, Section 504, and state law and would entitle her to damages or other remedies pursuant to those laws and acts.

In the body of her complaint, Student acknowledges that OAH would probably decline to take jurisdiction of the issues raised in her second claim, but states that she raised the issues for the purposes of exhausting her administrative remedies. Student has not filed a response to LACOE's motion to dismiss.

## DISCUSSION

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.)

As Student anticipates in her complaint, 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 Disabilities Act. Nor does OAH have jurisdiction over issues arising under state civil rights statutes. LACOE’s motion to dismiss claim two of Student’s complaint is therefore granted.

## ORDER

LACOE’s motion to dismiss claim two of Student’s complaint is granted with prejudice as to all parties. The matter will proceed as scheduled as to the remaining claims Student has raised.

Dated: March 29, 2011

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings