

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

GUARDIAN ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011060840

ORDER GRANTING DISTRICT'S
MOTION TO DISMISS ISSUE THREE
OF STUDENT'S COMPLAINT

On June 16, 2011, Student filed a Request for Due Process Hearing (complaint), naming the Garden Grove Unified School District (District) as the respondent.

On June 27, 2011, the District filed a Motion to Dismiss issue three of Student's complaint, alleging that the subject matter of that issue is beyond the jurisdiction of the Office of Administrative Hearings (OAH). Student has not responded to the District's motion.

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.)

In this case, Student alleges in his issue three that the District's actions, in procedurally and substantively denying him a free appropriate public education, have denied him his rights under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), under the Americans with Disabilities Act, and under State law. As stated by the District, OAH does not have jurisdiction over any of these allegations. Student acknowledges in his

complaint that he has brought these allegations in order to exhaust his administrative remedies as to them.

Therefore, the District's motion to dismiss Student's issue three for lack of OAH's jurisdiction over the allegations contained in that paragraph of Student's complaint is granted.

IT IS SO ORDERED.

Dated: July 5, 2011

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings