

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION.

OAH CASE NO. 2011120539

ORDER GRANTING MOTION TO
DISMISS

On December 16, 2011, Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) naming the Los Angeles County Office of Education (LACOE) as the respondent.

On January 3, 2012, LACOE filed a motion to dismiss Issue Four which alleges that LACOE caused a deprivation of Student's right to a free appropriate public education (FAPE) which resulted in a violation of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.); the Americans with Disabilities Act; and California's Unruh Act

OAH has received no response from Student to LACOE's 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 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 nor the Unruh Act.

ORDER

LACOE's Motion to Dismiss Issue Four is granted. The matter will proceed as scheduled as to the remaining issues as scheduled.

IT IS SO ORDERED.

Dated: January 11, 2012

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings