

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012010154

ORDER GRANTING MOTION TO  
DISMISS ISSUE

On January 9, 2012, Student filed a Due Process Hearing request (complaint) naming the Pasadena Unified School District (District) as respondent. On January 20, 2012, District filed a motion to dismiss Student’s Issue Five on the grounds that the Office of Administrative Hearings (OAH) lacks jurisdiction to hear the issue<sup>1</sup>.

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.)

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<sup>1</sup> While District hints at a statute of limitations defense, District has not moved to dismiss any of Student’s claims on the grounds that they are time-barred. This order solely addresses the motion to strike Issue Five.

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.), Americans with Disabilities Act (ADA), and other state and federal civil rights.

#### DISCUSSION

Student's Issue Five raises the question of whether the District, in failing to comply with the IDEA, denied Student and his Guardian their rights under the ADA, Section 504, and other state and federal civil rights laws. Student acknowledges that OAH does not have jurisdiction to determine these claims and Student filed the claims as a means to exhaust his administrative remedies. As discussed above, OAH lacks jurisdiction over such claims, accordingly, the motion to dismiss is granted.

#### ORDER

1. District's Motion to Dismiss is granted as to Issues Five.
2. The matter will proceed as scheduled as to the remaining issues.

Dated: January 25, 2012

/s/

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THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings