BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. ORANGE UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2012020129
PARENT ON BEHALF OF STUDENT, v. ORANGE UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2011080016 ORDER GRANTING IN PART AND DENYING IN PART DISTRICT'S LIMITED MOTION TO DISMISS

On February 13, 2012, The Orange Unified School District (District) filed a limited motion to dismiss portions of the complaint filed by Parents on behalf of Student on February 6, 2012. No opposition has been received.

Motion to Dismiss Student's Claims Beyond the Statute of Limitations

District moves, in part, to dismiss "issues and proposed remedies beyond the two-year state of limitations." However, as Student generally alleges no issues and seeks no remedies beyond the two-year statute of limitations, District's motion on this ground is denied.

Student expressly limits his issues to 2009-2010 and 2010-2011school years, and identifies the dates of the individualized education programs (IEPs) embodying District's offers of special education placement and related services. In particular, Student limits Problem No. 1 to an alleged denial of a free appropriate public education (FAPE) from January 2010 to June 2010, and limits Problem No. 2 to an alleged denial of FAPE in the 2010-2011 school year, both of which are, except for one month,[1] well within the 2-year statute. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) Student's proposed resolutions are similarly limited. The references to events occurring "in 2005,

[1] The complaint was filed on February 6, 2012, imposing a limitation on issues and remedies of February 6, 2010, unless Student can make a showing of an exception for purposes of including alleged action or inaction by District in January of 2010. This minor factual issue can be addressed at hearing and/or refined at the pre-hearing conference.

2006, 2007 and up to the present" that are the basis for District's motion are included as part of the background discussion in Student's complaint only.

Motion to Dismiss Student's Claims under Section 504

District moves to dismiss Student's problem Number 3 and Proposed Resolution Number 3 as beyond the jurisdiction of the Office of Administrative Hearings (OAH).

Parents have 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, § 56505, subd. (l).) OAH has jurisdiction to hear due process claims arising under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et seq.). (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029).

OAH does not have jurisdiction to entertain discrimination claims under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.). Student's Problem No. 3 seeks redress for alleged discrimination by District in violation of Section 504, and Proposed Resolution No. 3 seeks remedies for those discriminatory acts, including monetary compensation. Both the issue of discriminatory conduct, and the remedy therefor, are beyond the jurisdiction of OAH, and District's motion to dismiss this portion of the complaint is granted.

ORDER

1. District's limited motion to dismiss Problem No. 3 and Proposed Resolution No. 3 of Student's complaint is granted.

2. The remainder of District's limited motion to dismiss portions of Student's complaint is denied.

3. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Dated: February 17, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings