

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012020755

ORDER GRANTING DISTRICT'S
MOTION TO DISMISS

On March 9, 2012, the Torrance Unified School District (District) filed a motion to dismiss several issues raised in Student's due process complaint, based upon the fact that the issues were not within the jurisdiction of the Office of Administrative Hearings (OAH). The issues to which the District objects are those alleging violations of Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the state Unruh Act. Student has not filed an opposition or otherwise replied to the District's motion.

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.), Title II of the Americans with Disabilities Act, or the state Unruh Act. The District's motion to dismiss these issues in Student's complaint is therefore granted.

ORDER

The District's motion to dismiss any and all issues pertaining to allegations of violations of the Americans with Disabilities Act, the Rehabilitation Act and/or the Unruh Act, is granted. This matter will proceed as scheduled as to the remaining issues in Student's complaint.

Dated: March 21, 2012

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings