

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012041000

ORDER GRANTING MOTION TO
DISMISS

On June 7, 2012, Student filed an Amended Request for Due Process Hearing (amended complaint) with the Office of Administrative Hearings (OAH), naming District as the Respondent. The complaint contained thirteen “counts” or issues. Count 13 alleged that District had discriminated against Student on the basis of his disability, in violation of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and the Unruh Civil Rights Act (California Civil Code, section 51 et seq.)

On July 25, 2012, District filed a Motion to Dismiss Count 13. Student filed no opposition, and represented on the record at the July 30, 2012, Preliminary Hearing Conference that the Motion was unopposed.

The purpose of the IDEA is to “ensure that all children with disabilities have available to them a 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 or the Unruh Civil Rights Act.

Therefore, OAH lacks jurisdiction over Count 13 and it is dismissed.

ORDER

1. District's Motion to Dismiss is granted as to Count 13 in Student's amended complaint.

2. The matter will proceed as scheduled as to the remaining portions of the amended complaint.

Dated: July 31, 2012

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings