

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL  
DISTRICT AND LOS ANGELES  
COUNTY DEPARTMENT OF  
EDUCATION

OAH CASE NO. 2012070514

ORDER GRANTING MOTION TO  
DISMISS STUDENT’S ISSUE THREE

On July 18, 2012, Parent on behalf of Student (Student) filed a Request for Due Process Hearing (complaint), naming Long Beach Unified School District (District) and Los Angeles County Department of Education (COE) as the respondents.

On August 1, 2012, COE filed a Motion to Dismiss Issue Three of the complaint (motion), alleging the Office of Administrative Hearings (OAH) does not have jurisdiction to entertain claims based on Section 504 of the Rehabilitation Act of 1973 or Section 1983 of Title 42 United States Code.

OAH has not received a response to the motion from either Student nor the District.

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 or Section 1983 of Title 42 United States Code.

#### DISCUSSION

In the present matter, Issue Three of Student's complaint raises claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. and Section 1983 of Title 42 United States Code over which OAH has no jurisdiction. Student's Issue Three is therefore dismissed from the complaint.

#### ORDER

Los Angeles County Department of Education's Motion to Dismiss is granted as to Issue Three of Student's complaint. The matter will proceed as scheduled as to the remaining issues

IT IS SO ORDERED.

Dated: August 09, 2012

/s/

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JUDITH PASEWARK  
Administrative Law Judge  
Office of Administrative Hearings