

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012101019

ORDER DENYING DISTRICT'S
PARTIAL MOTION TO DISMISS

On November 5, 2012, the Irvine Unified School District (District) filed a “partial motion to dismiss” (i) those portions of Student’s due process hearing request (complaint) that fall outside of the jurisdiction of the Office of Administrative Hearings (OAH) under the Individuals with Disabilities Education Act (IDEA), and (ii) any claims falling outside of the statute of limitations. Student has not responded to the motion.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc.....), special education law does not provide for a summary judgment procedure.

DISCUSSION

Student, a 9-year-old girl with autism, alleges that District denied her a free appropriate public education (FAPE) for the 2010-2011, 2011-2012 and 2012-2013 school years by failing to (1) provide or offer the services required to meet Student’s unique needs in academics, sensory processing, speech and language, social skills and behavior, (2) identify Student as secondarily eligible for special education in the category of speech and language impairment, (3) consider assessments privately funded by Student’s parents (Parents), (4) provide a credentialed teacher for Student, or (5) timely file for due process when Parents failed to consent to the goals in Student’s 2011 IEP. Parents privately placed Student for the 2012-2013 school year, and seek reimbursement for private school tuition, related and compensatory services, as well as attorney’s fees.

Student’s Claims

The purpose of the 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).) 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.)

Student’s complaint contains five claims, each of which expressly alleges a denial of Student’s right to a FAPE under the IDEA. District argues that OAH lacks jurisdiction to hear claims brought under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, but Student does not make such claims. Student’s claims are limited to matters relating to the identification, evaluation, educational placement, or the provision of a FAPE to Student under the IDEA and related state statutes. To the extent Student alleges that District engaged in otherwise unlawful conduct that ultimately deprived her of a FAPE, such a dispute is within OAH’s jurisdiction.

The Statute of Limitations

As to District’s argument that Student’s claims prior to October 25, 2010 are barred by the statute of limitations, that portion of the motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits. Whether, and to what extent, District’s defense of the statute of limitations under Education Code section 56505, subdivision (1), applies to the facts raised in Student’s complaint will be decided upon a factual inquiry.

Accordingly, District’s motion to dismiss is denied in its entirety.

IT IS SO ORDERED.

Dated: November 9, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings