

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. 2013120333

ORDER GRANTING MOTION TO
DISMISS ISSUES

On December 9, 2013, Parent on behalf of Student (Student) filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH) naming the Los Angeles Unified School District (District). Student's complaint contains five claims. Claim 1 in Student's complaint alleges violations under the Individuals with Disabilities Education Act (IDEA), but Claims 2 through 5 alleges violations under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq. (ADA)), Title V of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. (Section 504)), 42 United States Code section 1983 (Section 1983), and Government Code Section 910 et seq. (Section 910). The complaint also named District's Director of Special Education and Student's School Principal as co-respondents in their individual and official capacities as employees of District.

On December 19, 2013, through its attorney, District filed a motion to dismiss all issues in Student's complaint brought under the ADA, Section 504, Section 1983 and Section 910, and/or against its employees in their individual or official capacities because OAH's jurisdiction is limited to IDEA issues and District's responsibilities implementing the IDEA. No response or opposition has been received from Student.

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.)

DISCUSSION

Here, Student's complaint alleges that District denied him a FAPE under the IDEA, and also the ADA, Section 504, Section 1983 and Section 910. OAH does not have jurisdiction to hear claims brought under the ADA, Section 504, Section 1983 or Section 910, or claims brought against District's employees in their individual or official capacities. Accordingly, District's motion to dismiss all issues in Student's complaint alleging violations under the ADA, Section 504, Section 1983 or Section 910, and against its employees in their individual or official capacities, is granted.

ORDER

1. District's motion to dismiss Claims 2 through 5 in Students complaint relating to alleged violations under the ADA, Section 504, Section 1983 and Section 910 is granted.
2. District's motion to dismiss all claims against its employees in their individual or official capacities is granted.
3. The matter will proceed as scheduled as to the remaining Claim 1 in Student's complaint.

IT IS SO ORDERED.

Dated: December 24, 2013

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings