

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA ROSA CITY SCHOOLS.

OAH CASE NO. 2014090161

ORDER GRANTING MOTION TO  
DISMISS

On August 27, 2014, Parent on behalf of Student filed with the Office of Administrative Hearings a Due Process Hearing Request<sup>1</sup> (complaint) naming Santa Rosa City Schools as respondent. Student's complaint consists of eight legal size, single spaced pages that are primarily a narrative of Student's and Parent's relationship with Santa Rosa since Student's second grade. Student alleges that she is now 21 years old, but provided Santa Rosa with an executed assignment in July 2012, authorizing her Parent to exercise educational rights on Student's behalf. Student's proposed resolution is "substantial monetary damages" for the loss of Student's "education, her independence, her ability to mingle with peers, to live on her own, to work, to attend college, . . . loss of her self-esteem, of friendships, of any semblance of a normal life."

On August 27, 2014, Santa Rosa timely filed a Notice of Insufficiency as to Student's complaint. On September 5, 2014, OAH, per ALJ Clifford H. Woolsey, issued an order finding Student's complaint as sufficient. The ALJ ruled that the proposed resolution thusly: "Though District may argue that the proposed resolution is not within the jurisdiction of the Office of Administrative Hearings, the proposed resolution is simply and clearly stated. Santa Rosa is aware of what remedy Student seeks and it is thus sufficiently defined."

On September 8, 2014, Santa Rosa filed with OAH a motion to dismiss the complaint on grounds that the remedy sought is not within the jurisdiction of OAH.

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

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

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.) Thus, 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.), No Child Left Behind, Section 1983 of Title 42 United States Code, or related other federal and state laws.

Monetary damages, such as general, special, and punitive damages are a relief not available under the Individuals with Disabilities Education Act. (*C.O. v. Portland Public Schools* (9th Cir. 2012) 679 F.3d 1162, 1166.) In 1996, The Seventh Circuit held that awarding monetary damages was not available under the IDEA. (*Charlie F. v. Board of Education* (7th Cir. 1996) 98 F.3d 989, 991.) The Ninth Circuit has long held that monetary damages were not available under the IDEA. (See, *Witte v. Clark County School District* (9th Cir. 1999) 197 F.3d 1271, 1276; *Robb v. Bethel School District #403* (9th Cir. 2002) 308 F.3d 1047, 1051.

## DISCUSSION

In her complaint, Student seeks “substantial damages” to compensate her for the loss of her self-esteem, friendships, or any semblance of normal life. In her complaint, Student states: “If the OAH has no jurisdiction to award monetary damages, then we would appreciate at least a hearing stating that we have exhausted our administrative appeals and can proceed to court.”

Clearly, Student does not seek any remedy under the IDEA but instead is seeking money damages and is merely attempting to file this action so as to get to Federal or State court where she can receive money damages. The dispositive question therefore is whether Student is seeking a remedy to injuries that could be redressed to any degree by the administrative procedures of the IDEA. IDEA remedies include educational services for disabled children. (*Blanchard v. Morton School District* (9th Cir. 2005) 420 F.3d 918, 921.) Since Student fails to seek any remedy under the IDEA, OAH is without jurisdiction in this matter.

ORDER

The District's Motion to Dismiss is GRANTED. The matter is hereby dismissed.

DATE: September 11, 2014

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings