

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014120658

ORDER GRANTING MOTION TO
DISMISS ISSUE SIX

On December 15, 2014, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint), naming the Long Beach Unified School District as the respondent. The complaint contains six issues. Issue six states that Long Beach “discriminated against Student on the basis of his disability.” Student contends that the alleged discriminatory actions by Long Beach violate Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Unruh Civil Rights Act, Disabled Persons Act, and Government Code section 11135.

On December 19, 2014, Long Beach filed a Motion for Dismissal of Issue Six, alleging that the OAH is without jurisdiction to hear the claims brought in Issue Six.

OAH received no response to the District’s motion.

APPLICABLE LAW AND DISCUSSION

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”, 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.), the ADA, or under state civil rights laws.

ORDER

The District's Motion to Dismiss Issue Six is GRANTED. Issue Six is hereby dismissed. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

DATE: January 6, 2015

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings