

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

REDONDO BEACH UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2009040243

ORDER GRANTING MOTION TO  
DISMISS

On April 1, 2009, Parents, on behalf of Student, filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) against the Redondo Beach Unified School District (District).

On April 14, 2009, Aaron Bento, the District's Special Education Executive Director, filed a motion to dismiss. On April 20, 2009, Student filed an opposition to the District's motion to dismiss.

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.)

California Education Code section 49070 states that a parent may file a written request with the superintendent of the district to correct or remove any information recorded in the written records of his or her child. If the superintendent refuses to order the correction or removal of the information, the parent may appeal to the governing board of the district.

## DISCUSSION

Student requests that the District remove from her educational records any information that she attended a special day class (SDC) because the District should never have placed her in a SDC. According to the complaint and Student's opposition to District's motion to dismiss, Student's parents used the procedures in Education Code section 49070, and the District's governing board refused to remove the requested information. According to the authority cited above, OAH has jurisdiction over matters relating to the identification, evaluation, or educational placement of the child, or the provision the provision of a FAPE to the child. OAH does not have jurisdiction to redact information from Student's school records when the party filing the complaint states no claim regarding the above matters over which OAH has jurisdiction. Therefore, OAH does not have jurisdiction over the claims in the complaint, and the matter is dismissed. (*Student v. Modesto City Schools* (2006) OAH Case No. 2005110121, p. 8, fn. 3.)

## ORDER

The District's Motion to Dismiss is granted.

Dated: April 28, 2009

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings