

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011070179

ORDER DENYING MOTION TO
DISMISS

On July 06, 2011, Parents on behalf of Student (Student) filed a Request for Due Process Hearing (complaint), naming the Los Angeles Unified School District (District) as the respondent.

On July 18, 2011, the District filed a Motion to Dismiss Issues One and Three, alleging that the Office of Administrative Hearings (OAH) lacks jurisdiction over these issues.

On July 22, 2011, Student filed an opposition to the District's motion.

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].) (Emphasis added) 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; *Compton Unified School District v. Addison* (9th Cir. 2010) 598 F.3d 1181, 1184.)

Here, Issue One and Issue Three deal with the educational placement proposed by the District in the latest Individualized Education Program (IEP), which Student is challenging. In Issue One, Student contends that the change of placement to the Cienega Elementary School is not appropriate because the area where the school is located is not “safe.” In Issue Three, Student contends that the change of placement is not appropriate because she is so attached to her twin brother, who is assigned to a different school that it will cause emotional problems which will interfere with her education. Student requests that Student be assigned to her local elementary school with appropriate supports. Both of these issues deal with the change of educational placement and are within the jurisdiction of OAH. Accordingly, the District’s motion to dismiss is DENIED.

IT IS SO ORDERED.

Dated: July 25, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings