

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. 2011100446

ORDER GRANTING DISTRICT'S  
MOTION TO DISMISS STUDENT'S  
PROBLEM NUMBER TWO

On April 4, 2012, the Los Angeles Unified School District (District) filed a motion to dismiss Problem Number Two from Student's due process request (complaint). No opposition has been received.

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 the Office of Administrative Hearings (OAH) is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Problem Number Two of Student's complaint alleges violations of five statutes or groups of statutes: (i) the Unruh Civil Rights Act (Civ. Code, §§ 51 and 51.7), (ii) Education Code sections 200, 201, 262.3 (appeal to State Department of Education regarding District action on complaint of bias) and 32261 (right to safe campus), (iii) the Due Process and Equal Protection clauses of the federal and state constitutions, (iv) Title II of the Americans with Disabilities Act (42 U.S.C. § 12131 et seq.), and (v) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.). Problem Number Two seeks a determination beyond the identification, evaluation, or educational placement of Student, or the provision of a free appropriate public education to Student, and OAH does not have jurisdiction to entertain that claim.

ORDER

1. District's motion to dismiss Problem Number Two of Student's complaint is granted.
2. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Dated: April 17, 2012

/s/

---

ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings