

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF  
EDUCATION AND LOS ANGELES  
UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012010768

ORDER GRANTING MOTION TO  
DISMISS

On January 26, 2012, Parent on behalf of Student (Student) filed a Request for Due Process Hearing (complaint), naming the Los Angeles County Office of Education (LACOE) and the Los Angeles Unified School District (District) as the respondents.

On February 7, 2012, LACOE filed a Motion to Dismiss Student’s Issue Four on the grounds that the issue is outside the jurisdiction of OAH. Student’s Issue Four contains claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and Section 1983 of Title 42 United States Code.

OAH received no response to the Motion to Dismiss from either Student or the District.

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.)

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.) or Section 1983 of Title 42 United States Code.

#### DISCUSSION

Student's Issue Four alleges violations of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and Section 1983 of Title 42 United States Code. In application of the authority cited above, OAH has no jurisdiction to entertain such claims. Therefore Student's Issue Four must be dismissed.

#### ORDER

Los Angeles County Office of Education's Motion to Dismiss Issue Four of Student's complaint is granted. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Dated: February 13, 2012

/s/

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JUDITH PASEWARK  
Administrative Law Judge  
Office of Administrative Hearings