

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2014070784

ORDER GRANTING MOTION TO  
DISMISS ISSUES 4 AND 5

On July 16, 2014, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings naming the Pasadena Unified School District. On July 28, 2014, District filed a Motion to Dismiss Issues 4 and 5<sup>1</sup> and Proposed Resolutions 4 and 5, alleging that Student's claims and proposed resolutions are outside the scope of OAH's jurisdiction. Student did not submit a response.

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.) and the Americans with Disability Act (ADA) (Title 42 U.S.C. §§ 1201, et seq.).

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<sup>1</sup> The issues are in Paragraphs VI(D) and (E) in Student's complaint

## DISCUSSION

District requests that OAH dismiss Issue 4, which alleges violations of the ADA and Issue 5, which alleges violations of Section 504, as OAH lacks jurisdiction to adjudicate these claims. Student's Issues 4 and 5, which alleges that District violated the ADA and Section 504 are dismissed as OAH does not have jurisdiction to adjudicate these claims.<sup>2</sup>

District requests that OAH dismiss Proposed Resolution 4, which requests an order that prevents District from placing any Student at Focus Point Academy. Further, District requests that OAH dismiss Proposed Resolution 5, which requests that OAH order District to change its policy regarding the development of behavior plans. District requests dismissal of these proposed resolutions because OAH lacks jurisdiction to grant the requested relief. Regarding these proposed resolutions, District's concerns can be addressed at the Prehearing Conference.

## ORDER

1. Issues 4 and 5 are dismissed.
2. District's request to dismiss Proposed Resolutions 4 and 5 is denied without prejudice.
3. The matter will proceed as scheduled as to the remaining issues and proposed resolutions.

DATE: August 5, 2014

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>2</sup> Student should be advised about possible allegations involving the "Hughes Bill," because effective July 1, 2013, the Hughes Bill was repealed upon the passing of Assembly Bill 86.