

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED  
SCHOOL DISTRICT.

OAH CASE NO. 2014110451

ORDER ON STUDENT’S MOTION  
FOR ADVISORY DECLARATION  
REGARDING TRANSFER OF  
EDUCATIONAL RIGHTS

On November 10, 2014, Parents, on behalf of 18-year-old Student, filed a due process hearing request (complaint) naming Santa Monica-Malibu Unified School District.

On December 8, 2014, Student filed a motion “to declare adult Student’s right to assign educational decision making authority to his parents,” seeking that OAH confirm Student’s right to assign his educational rights to his parents. On December 4, 2014, District filed an opposition. On December 6, 2014 Student filed a reply.<sup>1</sup>

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).) 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.)

Special education due process hearings are limited to an examination of the time frame pleaded in the complaint and as established by the evidence at the hearing and expressly do not include declaratory decisions about how the IDEA would apply hypothetically. (Gov. Code, § 11465.10-11465.60; Cal. Code Regs, tit. 5, § 3089; see also *Princeton University v. Schmid* (1982) 455 U.S. 100, 102 [102 S.Ct. 867, 70 L. Ed. 2d 855] [“courts do not sit to decide hypothetical issues or to give advisory opinions”]; *Stonehouse Homes v. City of Sierra Madre* (2008) 167 Cal.App.4th 531, 539-542 [court deemed the

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<sup>1</sup> The opposition and reply papers were filed by fax, and were received by OAH prior to the motion, which was filed by mail.

