

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2016010039

ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
DISMISS ISSUE 2(C)

On December 22, 2015, Parents on behalf of Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming Garden Grove Unified School District.

On January 4, 2016, District filed a Motion to Dismiss, alleging that OAH is without jurisdiction to hear Issue 2(C).

OAH received no response to the Motion to Dismiss/Request for Dismissal from Student.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education”, 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.) Thus, OAH does not have jurisdiction to entertain claims that are not based on the IDEA or state law implementing the IDEA.

DISCUSSION

Student's complaint alleges two main issues, which are both broken into sub-issues.¹ The first issue alleges that District denied Student a FAPE since December 2013 and avers substantive violations of the IDEA. The second issue alleges that District committed various procedural violations of the IDEA. The third sub-issue of the second issue alleges that District failed to provide a complete set of Student's educational records pursuant to parental request.² Student contends that District failed to provide the clinical data and direct observational data kept by Student's behavioral services provider, which prevented Parents from participating in the IEP process. They further contend that District's failure to produce the requested records violated the Family Education and Privacy Act (FERPA).

District requests that OAH dismiss this issue in its entirety.

Here, Student has alleged a claim within the jurisdiction of OAH-the failure to produce educational records which impeded Parents' right to meaningful participate in the IEP decision-making process, which is a procedural violation. However, Student's claim under FERPA is not within OAH's jurisdiction as discussed above.

ORDER

1. District's Motion to Dismiss to dismiss Student's Issue 2(C) is denied in part and granted in part.
2. District's motion is granted as to the claim that it violated FERPA.
3. District's motion is denied as to the claim that Parents were denied the right to meaningfully participate in the IEP decision-making process.

IT IS SO ORDERED.

DATE: January 07, 2016

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings

¹ The complaint does not include a numbering of the issues and sub-issues.

² This issue is designated as Issue 2 (C).