

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2016030569

ORDER GRANTING MOTION TO
DISMISS ISSUES 1, 2 AND 3

On March 9, 2016, District filed a Motion to Dismiss Student’s Issues 1, 2 and 3, alleging that Issues 1, 2 and 3 allege claims of violations of Section 504 of the Rehabilitation Act, the Unruh Civil Rights Act, and the Americans with Disability Act (ADA).

Student filed no opposition to District’s Motion to Dismiss Issues 1, 2 and 3.

APPLICABLE LAW AND DISCUSSION

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.)

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.), the Unruh Civil Rights Act (Civ. Code, § 51), or the ADA (Title 42 U.S.C. §§ 1201, et seq.).

Student's Issues 1, 2 and 3 allege violations of Section 504, Unruh Act and the ADA, and are therefore dismissed from Student's complaint as OAH does not have jurisdiction over these claims.

ORDER

District's Motion to Dismiss is granted as to Student's Issues 1, 2 and 3. The matter will proceed as scheduled as to the remaining issues.

DATE: March 21, 2016

DocuSigned by:

Peter Paul Castillo

PETER PAUL CASTILLO

Presiding Administrative Law Judge
Office of Administrative Hearings