BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CHAFFEY JOINT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2019090129

ORDER DENYING MOTION TO DISMISS ISSUE FOR LACK OF JURISDICTION

JUNE 11, 2020

On September 3, 2019, Student filed a Request for Due Process Hearing, with the Office of Administrative Hearings, naming Chaffey Joint Union High School District. The Office of Administrative Hearings is referred to as OAH. On January 6, 2020, Student's Amended Due Process Hearing Request was filed, setting forth claims identified as Issues Nos 1 through 15. Student's Amended Due Process Hearing Request is referred to as the amended complaint.

On June 3, 2020, Chaffey Joint Union High School District filed its Amended Prehearing Conference Statement, referred to as PHC statement. Chaffey's PHC statement requested that Student's "Issue No. 14" on page 15 of Student's amended

complaint be dismissed because OAH lacks jurisdiction to adjudicate "Issue No. 14." Chaffey contends that the failure to accurately report Student's grades is not a claim based on proposal or refusal to initiate or change the identification, assessment, or educational placement of Student, or the provision of a free appropriate public education, referred to as FAPE. Chaffey also argues that the claim does not relate to the availability of a special education program.

OAH held a PHC on June 8, 2020. Student was ordered to file opposition to the request to dismiss by 5:00 PM.

Student timely filed opposition to the motion. Student argues that Chaffey denied Student FAPE by claiming he was completing diploma requirements because he was unable to independently access the curriculum, and that despite receiving "A" grades, Chaffey has not addressed his inability to read and comprehend grade level text. Student argues that these allegations relate to Student's placement because they will ultimately mean that Student will be graduated without having obtained the special education services he is entitled to receive.

On June 9, 2020, Chaffey filed a reply. Chaffey argues that Student is improperly attempting to use the due process procedures to challenge his grades which is outside of OAH's jurisdiction. Chaffey also argues that by his opposition, Student is attempting to raise a new claim challenging Student's graduation, which claim is not ripe and must be dismissed.

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 free appropriate public education 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 School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

DISCUSSION

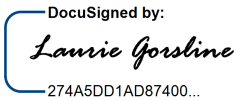
OAH has jurisdiction to adjudicate any matter relating to the provision of a FAPE to a child. Here, Student's amended complaint "Issue No. 14" alleges that Chaffey denied Student a FAPE by failing to accurately report Student's grades, specifically by reporting that Student was completing grade or near-grade level curriculum and giving him "A" grades. Student contends that by falsely reporting his achievement, Chaffey has denied Student the appropriate services required for a FAPE. Because Issue No. 14 relates to the denial of FAPE, OAH has jurisdiction to adjudicate this claim.

Chaffey's argument that Student's new claim challenging Student's graduation must be dismissed because it is an improper attempt to amend the complaint and is otherwise not ripe is without merit. The June 8, 2020 PHC Order clearly limited the period of time at issue for Student's "Issue No. 14," to [b]etween September 3, 2017 and the date the amended complaint was filed, and defined the FAPE claim at issue. Issue No. 14 is not

broader than as set forth in the June 8, 2020 PHC Order. OAH does not read Student's opposition as a motion to amend or otherwise expand the issue. As stated in the June 8, 2020 Order, motions not filed three business days before the PHC, shall be supported by a declaration under penalty of perjury establishing good cause why the motion was not timely filed. Student filed no such motion or declaration.

Chaffey's Motion to Dismiss "Issue No. 14" is denied. The matter shall proceed as scheduled.

IT IS SO ORDERED.



Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings