BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CLOVIS UNIFIED SCHOOL DISTRICT AND FRESNO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024010630

ORDER GRANTING MOTION TO DISMISS SECOND THROUGH EIGHTH CLAIMS AND STRIKE PROPOSED RESOLUTION 1C FOR LACK OF JURISDICTION

MARCH 28, 2024

On January 19, 2024, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Fresno Unified School District and Clovis Unified School District. The Office or Administrative Hearings is referred to as OAH.

On February 20, 2024, Student filed an Amended Complaint pursuant to a February 5, 2024, OAH Order which determined the complaint to be insufficient.

On March 19, 2024, Clovis Unified filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate certain issues alleged in the complaint, specifically the second through eighth claims. Clovis Unified also moved to strike Student's proposed resolution 1c on the grounds OAH has no jurisdiction to award compensatory damages.

On March 22, 2024, Student filed a response to the motion to dismiss/strike, indicating Student did not oppose the motion.

APPLICABLE LAW AND DISCUSSION

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.), called the IDEA, 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.)

OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States

Code, the Americans with Disabilities Act (42 U.S.C. §§ 12101, et seq.), claims for relief under Section 1985 of Title 42 United States Code, the Bane Act (Civ. Code, § 52.1), Government Code section 815.6 and common law tort claims.

Student alleges eight overarching claims in the First Amended Complaint. The first claim concerns violations of the IDEA and the California Education Code. However, the second through eighth claims fall outside OAH's jurisdiction because they are based other federal and state statutes and common law, including the Americans with Disabilities Act, Section 1983 and Section1985 of Title 42 United States Code, the Bane Act, the Government Code, and common law torts. Student contends these claims were made to satisfy an exhaustion requirement. As Student acknowledges, OAH does not have jurisdiction to resolve these claims. Accordingly, the second through eighth claims are dismissed.

In ruling on motions, OAH relies by analogy on the relevant portions of the Code of Civil Procedure. California Code of Civil Procedure section 436 allows a court at any time in its discretion and upon terms it deems proper to: (a) strike out any irrelevant, false, or improper matter inserted in any pleading; or (b) strike out all or any part of any pleading not drawn or filed in conformity with the law.

Although the IDEA allows courts to grant "such relief as the court determines is appropriate" as authorized by 20 U.S.C. § 1415(i)(2)(C)(iii), ordinarily monetary damages are not available under this statute. (*Mountain View-Los Altos Union High School Dist. v. Sharron B. H.* (9th Cir. 1983) 709 F.2d 28, 30; *C.O. v. Portland Public Schools* (9th Cir. 2012) 679 F.3d 1162, 1166-1167 [the IDEA creates a comprehensive enforcement scheme in which compensatory damages play no part].)

Here, as part of the relief sought by the First Amended Complaint, Student seeks compensatory damages under proposed resolution 1c. OAH does not have jurisdiction to award compensatory damages because such damages are not available for the education claims Student asserts, but which may be available under the non-education claims which are the subject of the Motion to Dismiss. Student does not oppose the motion to strike. Accordingly, the motion to strike is granted.

ORDER

1. Clovis Unified's Motion to Dismiss is granted as to the Second through Eighth Claims of the First Amended Complaint. The matter will proceed as scheduled as to the remaining issues identified under the "First Claim," at paragraph 135.
2. Clovis Unified's Motion to Strike is granted as to proposed resolution 1c in the First Amended Complaint.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings