

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

RIVERSIDE COUNTY OFFICE OF
EDUCATION AND RIVERSIDE COUNTY
PROBATION DEPARTMENT.

OAH Case No. 2014041107

ORDER GRANTING MOTION TO
DISMISS AS TO ISSUE 3

On April 22, 2014, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings naming the Riverside County Office of Education and Riverside County Probation Department. On May 5, 2014, Education filed a Motion to Dismiss Issue 3, alleging that Student's claims are outside the scope of OAH's jurisdiction. Student did not submit a response.

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) [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 Americans with Disability Act (ADA) (Title 42 U.S.C. §§ 1201, et seq.), and the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Education requests that OAH dismiss Issue 3, which alleges violations of Section 504, the ADA and Unruh Civil Rights Act as OAH lacks jurisdiction to adjudicate these claims. Student's Issue 3, which alleges that County violated Section 504, the ADA and Unruh Civil Rights Act, is dismissed as OAH does not have jurisdiction to adjudicate these claims.

ORDER

1. Issue 3 is dismissed.
2. The matter will proceed as scheduled as to the remaining issues and proposed resolutions as to Education.

DATE: May 9, 2014

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings