

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. 2015020572

ORDER GRANTING MOTION TO
DISMISS

On February 9, 2015, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint), naming the Long Beach Unified School District. The complaint contains a single issue; Whether Long Beach has failed to update and keep accurate Student's cumulative file so as to comply with the Family Educational Rights and Privacy Act (FERPA).¹

On February 17, 2015, Long Beach filed with OAH a Motion to Dismiss, alleging that the complaint should be dismissed as OAH lacks jurisdiction over the issue.

On February 18, 2015, Student filed with OAH an opposition to the motion.

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

¹ 20 U.S.C. §1239g.

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 (*Wyner*).)

OAH does not have jurisdiction to hear the sole issue alleged in the complaint as it does not relate to the identification, evaluation, or educational placement of Student or whether he is being provided a free appropriate public education. (See, *Wyner*, *Ibid.*) Adequate relief can be obtained through the California Department of Education or the Family Policy Compliance Office in the United States Department of Education.

ORDER

Long Beach's Motion to Dismiss is granted. The matter is dismissed.

IT IS SO ORDERED.

DATE: February 25, 2015

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings