

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT, STATE OF CALIFORNIA,
CALIFORNIA STATE BOARD OF EDUCATION, AND CALIFORNIA
DEPARTMENT OF EDUCATION.

OAH CASE NUMBER 2021090607

ORDER GRANTING MOTION TO DISMISS PARTIES AND
ISSUES FOR LACK OF JURISDICTION

SEPTEMBER 29, 2021

On September 20, 2021, Parents on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, called OAH, naming Long Beach Unified School District, the State of California, the California State Board of Education, and the California Department of Education. On September 29, 2021, the California State Board of Education, called CSBE, and the California Department of Education, called CDE, requested that OAH dismiss them as parties because Student's issues alleged against them, specifically issues two and three,

are outside of OAH's jurisdiction. Based upon CSBE and CDE's contentions, the motion is also construed as a motion to dismiss issues two and three. Student failed to respond to the motion to dismiss.

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.)

Here, Student alleges three issues in his complaint. The first issue alleges Individuals with Disabilities Act violations against Long Beach Unified School District. The second issue alleges Americans with Disabilities Act violations against the State of California, CSBE, and CBE. The third issue alleges Section 504 of the Rehabilitation Act violations against the State of California, CSBE, and CDE. 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.) and the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.).

Accordingly, Student's issues two and three are dismissed. Additionally, the State of California, California State Board of Education, and California Department of Education are dismissed as parties.

ORDER

1. The Motion to Dismiss is granted.
2. Student's issues two and three are dismissed. The matter will proceed as scheduled as to the remaining issue.
3. The State of California, California State Board of Education, and California Department of Education are dismissed as parties. The matter will proceed as scheduled as to the remaining party.



Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings