

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT, THE STATE OF
CALIFORNIA, CALIFORNIA STATE BOARD OF EDUCATION AND
THE CALIFORNIA DEPARTMENT OF EDUCATION.

OAH CASE NUMBER 2021090431

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

OCTOBER 1, 2021

On September 15, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming the State of California, California State Board of Education, and California Department of Education. The Office of Administrative Hearings is referred to as OAH.

On September 29, 2021, the State Board of Education and California Department of Education filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate

Issues 2 and 3 alleged in the complaint. As these are the only issues alleged against them, the Board of Education and Department of Education request that they be dismissed as parties. Student has not filed a reply.

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.)

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. §§ 1201, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Student raises three issues. Issue 1 alleges a denial of a free appropriate public education under the Individuals with Disabilities Education Act as to Los Angeles Unified only. Issue 2 alleges a violation under the Americans with Disabilities Act against the State of California, the State Board of Education, and the State Department of Education. Issue 3 alleges a violation of Section 504 of the Rehabilitation Act as to these same three parties. OAH does not have jurisdiction to resolve Issues 2 and 3. Accordingly, Issues 2 and 3 are dismissed. As the only remaining issue involves Los Angeles Unified, the State respondents are dismissed as parties.

ORDER

1. California State Board of Education's and California Department of Education's Motion to Dismiss is granted as to Issues 2 and 3.
2. The State of California, State Board of Education, and Department of Education are dismissed as parties.
3. The matter shall proceed as scheduled as to the remaining issue.

IT IS SO ORDERED.

Theresa Ravandi

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Administrative Law Judge

Office of Administrative Hearings