

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 2021100373

ORDER GRANTING MOTION TO DISMISS ISSUES FOR
LACK OF JURISDICTION AND DISMISSING
CALIFORNIA STATE BOARD OF EDUCATION AND
CALIFORNIA DEPARTMENT OF EDUCATION

OCTOBER 25, 2021

On October 14, 2021, Parents on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Long Beach Unified School District, State of California, California State Board of

Education and California Department of Education. The Office of Administrative Hearings is referred to as OAH.

On October 19, 2021, California 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, California State Board of Education and California Department of Education request that they be dismissed as parties. OAH did not receive a response from Student, Long Beach Unified School District or the State of California.

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,” 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.)

There is no summary judgment procedure in special education cases. OAH will, however, dismiss allegations and cases not within its jurisdiction. OAH has jurisdiction only over claims alleging the IDEA or California special education laws were violated. 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.), or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

The complaint alleges three issues. Issue One alleges violations under the IDEA and is pleaded only as to Long Beach Unified School District. Issue Two alleges violations under the Americans with Disabilities Act against the State of California, California State Board of Education, and California Department of Education. Issue Three alleges violations under Section 504 of the Rehabilitation Act as to the same three parties. OAH does not have jurisdiction over Issues 2 and 3. Accordingly, Issues 2 and 3 are dismissed as to the California State Board of Education and California Department of Education.

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. California State Board of Education and California Department of Education are dismissed as parties.
3. This matter shall proceed as scheduled against Long Beach Unified School District and the State of California.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings