

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT

V.

BEVERLY HILLS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010492

ORDER GRANTING MOTION TO DISMISS ISSUE FOR LACK
OF JURISDICTION

FEBRUARY 02, 2022

On January 18, 2022, Parents on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, Beverly Hills Unified School District. The Office of Administrative Hearings is called OAH.

On January 27, 2022, Beverly Hills filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate certain issues alleged in the complaint. Student has not filed a response.

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.)

DISCUSSION

Student alleges three issues. District asserts OAH lacks jurisdiction over Issue Three, which alleges violation of federal laws protecting against discrimination. Issue Three claims violation of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

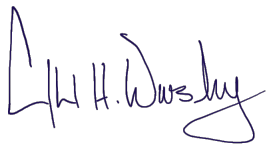
OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States

Code, the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51). Accordingly, Issue Three is dismissed.

ORDER

1. Beverly Hills Unified School District's Motion to Dismiss Issue Three is granted.
2. The matter will proceed as scheduled on the remaining issues.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley". The signature is stylized with a large initial "C" and "W".

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings