

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

POWAY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024060463

ORDER GRANTING MOTION TO DISMISS ISSUE NUMBER
THREE FOR LACK OF JURISDICTION

SEPTEMBER 24, 2024

On June 12, 2024, Poway Unified School District, called Poway, filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Student. The Office of Administrative Hearings is referred to as OAH.

On September 3, 2024, Poway filed a motion to amend and an amended complaint. On September 5, 2024, Student filed a non-opposition to that amendment, except as to Poway's Issue three, which Student contends is outside of OAH's jurisdiction. On September 9, 2024, ALJ Hohensee granted Poway's Motion for Leave to File Amended Complaint, which was deemed filed that day.

On September 18, 2024, Student filed a Motion to Dismiss Issue Three, called the Motion to Dismiss Issue, alleged in Poway's First Amended Complaint. Student's Motion to Dismiss Issue is based on the ground that OAH lacks jurisdiction to adjudicate issue number three alleged in the First Amended Complaint. Poway did not file an opposition or other response to Student's Motion to Dismiss Issue.

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

Poway's issue three alleged in the First Amended Complaint is as follows:

"Whether the District failed to provide Student with a FAPE when it denied Parent's April 25, 2024 request for reimbursement pursuant to the Parties' settlement agreement." A FAPE means a free appropriate public education.

Special education due process hearings are limited to an examination of the time frame pleaded in the complaint and as established by the evidence at the hearing and expressly do not include declaratory decisions about how the IDEA would apply hypothetically. (Gov. Code, § 11465.10-11465.60; Cal. Code Regs, tit. 5, § 3089; see also *Princeton University v. Schmid* (1982) 455 U.S. 100, 102 [102 S.Ct. 867, 70 L. Ed. 2d 855] ["courts do not sit to decide hypothetical issues or to give advisory opinions"]; *Stonehouse Homes v. City of Sierra Madre* (2008) 167 Cal.App.4th 531, 539-542 [court deemed the matter not ripe for adjudication because it was asked to speculate on hypothetical situations and there was no showing of imminent and significant hardship].)

Poway's issue three seeks a declaratory judgment from OAH regarding whether Poway complied with terms of a settlement agreement by refusing to reimburse Student for a particular expense. This issue is not ripe for adjudication. Moreover, it is not Poway's claim to bring. As addressed above, OAH does not have jurisdiction to decide hypothetical issues, or to give advisory opinions. Therefore, OAH lacks jurisdiction to resolve Poway's issue three. Accordingly, the Motion to Dismiss Issue is granted, and Poway's issue three is hereby dismissed.

ORDER

1. Student's Motion to Dismiss Issue is granted as to Poway's issue three, which is hereby dismissed.
2. This case will proceed as scheduled on the remaining issues.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings