

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
EAST SIDE UNION HIGH SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2025010268

ORDER DENYING MOTION TO DISMISS ISSUES FOR LACK
OF JURISDICTION

JANUARY 30, 2025

On January 9, 2025, Eastside Union High School District filed a Request for Due Process Hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Parent, on behalf of Student, as respondent.

On January 24, 2025, Student filed a Motion to Dismiss, alleging OAH lacks jurisdiction to adjudicate the issues alleged in the complaint. On January 29, 2025, Eastside filed an opposition to the motion. Although OAH procedures do not provide for reply briefs in law and motion matters, Student filed a reply on January 30, 2025, which was considered.

OAH JURISDICTION

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).) OAH’s jurisdiction is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Student contends the issues raised require OAH to decide whether Eastside can “force entry upon a private home” which would violate the United States’ Constitution’s fourth amendment prohibition against unreasonable search and seizure. Student asserts that, should OAH order Eastside to complete an assessment to be done in the home, or services to be implemented in the home, Eastside personnel would require a warrant, the issuance of which is outside OAH jurisdiction. Student argues that even the analysis of this issue is beyond OAH jurisdiction and, therefore, Eastside’s complaint must be dismissed.

Eastside contends that the issues presented fall squarely within OAH jurisdiction and Student’s attempt to reframe the issue to encompass a solely constitutional issue is a misapplication of the jurisdictional legal standard. Eastside points out its obligation to assess and to meet Student’s FAPE needs and asserts the filing of this complaint is in compliance with its duty to secure administrative review of its obligations, as required by state and federal law. (*I.R. v. Los Angeles Unified School District* (9th Cir. 2015) 805 F. 3d. 1164; Ed. Code § 56346, subd. (f).)

There is no summary judgment procedure in special education cases. OAH will dismiss allegations and cases not within its jurisdiction. However, Student failed to establish that OAH does not have jurisdiction in this matter, asserting without persuasive legal authority or analysis, that the matters Eastside pled in its complaint raise “purely constitutional questions” that are outside OAH’s jurisdiction to consider. Essentially, Student has failed to address the fundamental jurisdiction question here, leaping, instead, to a potential defense to an assessment or services.

Student’s analysis fails to focus on the issues that would be considered in this case, both of which are within OAH jurisdiction. Eastside’s complaint asserts two issues:

1. Whether Eastside should be granted the right to conduct a functional behavior assessment that involves going into Student’s home environment without Parent’s consent, as a necessary component of Student’s triennial evaluation; and
2. Whether Eastside should be granted the right to implement wraparound services in the home environment without parental consent in order to address Student’s school refusal and therapeutic needs?

DETERMINING EASTSIDE’S RIGHT TO ASSESS IS WITHIN OAH JURISDICTION

Eastside has an obligation to reassess Student when they are aware Student is displaying symptoms that are impeding her ability to access her education. A reevaluation may be done following proper notice to the parents and receipt of consent. (20 U.S.C. § 1414 (b)(1) and § 1415 (b)(3), (b)(4) and (c); 34 C.F.R. §§ 300.300, 300.9; Ed. Code § 56381, subd. (f).) If a parent refuses to consent to a reevaluation of a student, the public agency may, but is not required to, pursue the reevaluation by using

the IDEA's consent override procedures of filing for a due process hearing seeking permission to conduct the assessment without parental consent. (34 C.F.R. 300.300(c)(1)(ii).) The public agency that does not pursue consent override procedures is not deemed to have violated its child find obligations or any obligations regarding reassessment if parent refused consent for the assessment. (34 C.F.R. 300.300(c)(1)(iii).) In order to trigger the protections of this regulation, a district must be able to establish that it made reasonable efforts to obtain parental consent and Student's parent failed to respond. (34 C.F.R. 300.300(c)(2).)

By pursuing permission to assess a condition Eastside asserts is preventing Student from accessing her education, Eastside has asserted an issue that is facially within OAH jurisdiction. OAH will adjudicate the District's request to assess, and consider Student's reasons for contesting assessment or the method of assessment, based on evidence presented at hearing. Student has failed to offer any legal authority limiting OAH's ability to consider the full range of legal issues impacting District's right to assess under the IDEA. Regardless, such an assertion is premature, as the evidence and arguments for and against assessment have yet to be presented. The question, at this stage, is whether the issues pled fall within OAH jurisdiction. Determining Eastside's obligation to assess is clearly within OAH jurisdiction.

DETERMINING EASTSIDE'S RIGHT TO IMPLEMENT REQUIRED SPECIAL EDUCATION SERVICES IS WITHIN OAH JURISDICTION

Similarly, Student has failed to establish that Eastside's request to implement Student's IEP is outside OAH jurisdiction. Eastside has an obligation to provide special education services to eligible students. In California, if a parent will not consent to a proposed IEP component that the school district determines is necessary to provide a FAPE to a student receiving special education and related services, the school district

must expeditiously initiate a due process hearing. (*I.R. v. Los Angeles Unified School Dist.* (9th Cir. 2015) 805 F.3d 1164, 1170; see, Ed. Code, § 56346, subd. (f).) More importantly, Student has failed to establish that the issue of whether Eastside may implement its IEP to meet its obligations under the IDEA and state special education laws is outside OAH jurisdiction.

In this case, Eastside asks whether it may implement its IEP, without parental consent, to meet its IDEA obligation to provide special education and related services to Student. This is a question within OAH jurisdiction.

Student has focused on a single aspect of Eastside's requested remedies: going into Student's home; rather than focusing on the threshold jurisdictional aspects of the special education and related service issues that Eastside raises in its complaint. The permission to proceed is the issue. How District proposes to meet its obligation is certainly not the only focus of the issues pled, nor is it a "purely constitutional" question. Student's repeated, conclusory statements to this effect are offered without analysis or legal authority in the context of the IDEA and California special education laws. Student's argument misses the fundamental jurisdictional issue entirely.

Eastside has alleged claims requiring a due process hearing under state and federal law. Student offers no legal authority supporting its assertion that claims must

be dismissed because a proposed remedy to which the district has not yet proven entitlement, is pled. Student's Motion to Dismiss is denied. The matter shall proceed as scheduled.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings