BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020060522

ORDER GRANTING MOTION TO DISMISS ISSUES FOR LACK OF JURISDICTION AND GRANTING MOTION TO STRIKE REQUEST FOR DAMAGES

JULY 31, 2020

On June 16, 2020, Parents on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Los Angeles Unified School District. The Office or Administrative Hearings is referred to as OAH.

On July 24, 2020, Los Angeles Unified filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate certain issues alleged in the complaint. In addition, Los Angeles Unified contends OAH does not have the authority to award damages, and

therefore, moved to strike Student's request for damages. OAH received no response from Student.

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 Disability Act (42 U.S.C. §§ 1201, et seq.), the Unruh Civil Rights Act (Civ. Code, § 51); or California Government Code section 11135. Furthermore, OAH does not have the authority to award damages, which are not available under the IDEA. (*C.O. v. Portland Public Schools* (9th Cir. 2012) 679 F.3d 1162, 1162, citing *Blanchard v. Morton Sch. Dist.*, (9th Cir. 2007) 509 F.3d 934, 938.)

DISCUSSION

Issues 2(a) through 2(e) of Student's complaint raises claims based on Section 504 of the Rehabilitation Act, Section 1983 of Title 42 United States Code, the Americans with Disability Act, the Unruh Civil Rights Act, and California Government Code section 11135. Los Angeles Unified contends OAH lacks jurisdiction over these claims. Based upon the above authority, OAH does not have jurisdiction to resolve these claims. Accordingly, Student's Issues 2(a) through 2(e) are dismissed.

Furthermore, Student requests an award for general and special damages. OAH does not have the authority to grant these remedies, and therefore, these requested remedies are stricken.

ORDER

1. Los Angeles Unified's Motion to Dismiss is granted as to Issues 2(a), 2(b), 2(c), 2(d), and 2(e). The matter will proceed as scheduled as to the remaining issues.
2. Los Angeles Unified's motion to strike Student's requested remedies for general and special damages is granted.

IT IS SO ORDERED.

DocuSigned by:
Rommel P. Cruz
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Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings