BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016070290
CAPISTRANO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016041030 ORDER GRANTING MOTION TO DISMISS ISSUE 4 OF COMPLAINT

On July 11, 2016, Student filed a request for mediation and due process hearing (complaint) with the Office of Administrative Hearings, naming Capistrano Unified School District. The complaint contained four issues. Issue 4 raised claims based on section 504 of the Rehabilitation Act of 1973(29 U.S.C. § 701 et seq.), the Americans with Disabilities Act (42 U.S.C. § 1201 et seq.), and "California Civil Rights laws."

On July 21, 2016, Capistrano filed a motion to dismiss Issue 4 in Student's complaint on the grounds that OAH does not have jurisdiction to adjudicate claims based on alleged violations of section 504, the ADA and California civil rights laws. Student did not file a response.

APPLICABLE LAW

Parents have 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); see also Ed. Code, § 56501, subd. (a).) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029. OAH does not have jurisdiction to entertain claims based on section 504, the ADA, or any civil rights laws.

DISCUSSION

Student contends, in Issue 4, that Capistrano violated his rights under section 504, the ADA and California civil rights laws. Student acknowledges that OAH does not have jurisdiction over cases brought under these statutes, but states that he is raising this issue so that he may pursue it in federal court, should the OAH Decision be appealed, and not have Capistrano then raise the defense that he did not exhaust his administrative remedies as required to under these laws. Accordingly Student's Issue 4 is dismissed.

ORDER

1. Capistrano's motion to dismiss Student's Issue 4 is granted.

2. The matter shall proceed as scheduled on all other issues.

IT IS SO ORDERED.

DATE: August 10, 2016

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Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings