BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

VENTURA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021010613

ORDER GRANTING MOTION TO DISMISS ISSUES FOR LACK OF JURISDICTION

MARCH 3, 2021

On January 22, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Ventura Unified School District. The Office or Administrative Hearings is referred to as OAH.

On February 2, 2021, OAH granted Student's motion to file a first amended complaint. On February 19, 2021, Ventura filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate several issues alleged in the amended 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).) 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 Disabilities Act (42 U.S.C. §§ 1201, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Student's amended complaint includes issues alleging violations of Section 504, the Americans with Disabilities Act, and Section 1983. The complaint states that these claims were brought to satisfy an exhaustion requirement under federal law. OAH does not have jurisdiction to resolve these claims, and they are hereby dismissed.

ORDER

1. Ventura's Motion to Dismiss Student's issues raised under Section 504, the Americans with Disabilities Act, and Section 1983, found in the amended complaint in paragraphs 74, 76, 83, 87, and 90-94, is granted.

2. The matter shall proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Theresa Ravandi

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Administrative Law Judge

Office of Administrative Hearings