BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ENTERPRISE ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2022020241

ORDER GRANTING MOTION TO DISMISS ISSUE 5 FOR LACK OF JURISDICTION

MARCH 9, 2022

Parent on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, on February 7, 2022, naming Enterprise Elementary School District. The Office or Administrative Hearings is referred to as OAH. Enterprise Elementary filed a Motion to Dismiss on February 28, 2022, alleging OAH lacks jurisdiction to adjudicate Issue 5 alleged in the complaint. OAH received no response from Student.

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.), or the Unruh Civil Rights Act (Civ. Code, § 51).

Student alleges in Issue 5 violations of civil rights under Section 504, the Americans with Disabilities Act, and state civil rights laws. District correctly asserts that OAH does not have jurisdiction to resolve these claims.

Issue 5 is dismissed based upon lack of OAH jurisdiction to consider the claims in Issue 5. The matter shall proceed as to the remaining issues. All dates are confirmed.

IT IS SO ORDERED.

Adrienne L. Krikorian

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Administrative Law Judge

Office of Administrative Hearings