BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SANTA BARBARA UNIFIED SCHOOL DISTRICT AND

OLIVE GROVE CHARTER SCHOOL.

OAH CASE NUMBER 2022040550

ORDER GRANTING IN PART AND DENYING IN PART MOTION TO DISMISS

MAY 11, 2022

On April 18, 2022, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Santa Barbara Unified School District and Olive Grove Charter School. The Office or Administrative Hearings is referred to as OAH.

On May 4, 2022, Santa Barbara Unified School District filed a Motion to Dismiss alleging issues relating to acts or omissions occurring prior to April 15, 2020, must be dismissed because they are outside of the two-year statute of limitation and OAH lacks jurisdiction to adjudicate certain issues alleged in the complaint. On May 9, 2022,

Student filed an Opposition to Santa Barbara's Motion to Dismiss. On May 10, 2022, Santa Barbara filed a reply.

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

DISCUSSION

Student alleges one claim for relief under the IDEA and related California Education Code. Student's complaint states that for jurisdictional purposes, she is filing her non-IDEA claims for the purposes of determining exhaustion of those claims through OAH would be futile, as OAH does not assert jurisdiction over those claims. Student's claims pursuant to Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Unruh Act are dismissed for lack of jurisdiction.

Santa Barbara argues that neither exception to the statute of limitations applies to the issues alleged in the complaint relating to alleged acts or omissions occurring prior to April 15, 2020. Santa Barbara asserts that all issues outside of the statutory time period must be dismissed. It does not provide authority to support this contention. Student's complaint alleges Santa Barbara and Olive Grove Charter School denied her a free appropriate public education, called FAPE, by violating child find and failing to offer a FAPE. On their face, the claims alleged are within OAH's jurisdiction. A ruling that the issue raised in the complaint are outside of OAH's jurisdiction is premature until issues are further clarified during the prehearing conference.

Santa Barbara did not file a notice of insufficiency; therefore all issues are deemed validly raised. As pled, Student's complaint does not assert claims outside of OAH's jurisdiction. As a result, Santa Barbara's motion to dismiss claims occurring prior to April 15, 2020, is denied without prejudice to raise once the issues have been clarified during the prehearing conference.

ORDER

1. Santa Barbara's motion to dismiss claims pursuant to Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Unruh Act are dismissed for lack of jurisdiction.
2. Santa Barbara's motion to dismiss claims related to acts or omissions occurring prior to April 15, 2020, is denied without prejudice.
3. The matter will proceed as scheduled.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings