

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014050139

ORDER GRANTING MOTION TO
DISMISS CERTAIN CLAIMS

On May 2, 2014, Student's parents on behalf of Student filed a request for due process hearing (complaint), naming the Capistrano Unified School District (Capistrano) as the respondent.

On May 12, 2014, Capistrano filed a motion to dismiss certain claims from the complaint, contending that those claims are beyond the jurisdiction of the Office of Administrative Hearings (OAH) in a special education due process proceeding.

OAH has received no response to the motion from Student.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education" (FAPE), 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 Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to entertain claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) or Section 1983 of Title 42 of the United States Code.

DISCUSSION

Issues one and two of Student's complaint allege that Capistrano denied Student a FAPE, violated IDEA, violated Section 504 of the Rehabilitation Act, and violated Student's

rights under Section 1983 of Title 42 of the United States Code. While OAH has jurisdiction over Student's IDEA and FAPE claims, OAH does not have jurisdiction over the Section 504 claims or Section 1983 claims. To the extent that the complaint alleges the latter two types of claims, those claims must be dismissed.

ORDER

1. Capistrano's motion to dismiss the claims in Student's complaint which are based on Section 504 and Section 1983 is granted. To the extent that any of the claims in Student's complaint relate to alleged violations of Section 504 of the Rehabilitation Act of 1973 or Section 1983 of Title 42 of the United States Code, those claims are hereby dismissed.

2. The matter will proceed as scheduled as to all remaining claims.

IT IS SO ORDERED.

DATE: May 16, 2014

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings