

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

INGLEWOOD UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014051098

ORDER GRANTING MOTION TO
DISMISS CLAIMS ARISING UNDER
SECTION 504 OF THE
REHABILITATION ACT OF 1973

On May 22, 2014, Student filed a 15-page request for a due process hearing which included 14 specific allegations. Allegations 13 and 14 asserted claims of discrimination and retaliation arising under Section 504 of the Rehabilitation Act of 1973. On June 4, 2014, Inglewood Unified School District filed a motion to dismiss Student's claims arising under Section 504. The Office of Administrative Hearings received no response from Student.

OAH does not have jurisdiction to entertain claims based on Section 504, Section 1983, or other related state and federal civil rights laws. 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) [party has a right to present a complaint regarding matters involving a proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE 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 Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Allegation 13 alleges that District did not develop a Section 504 plan for Student and thereby violated Section 504. Allegation 14 asserts that District appeared to be retaliating against Student's Parent in violation of Section 504. The complaint specifically identifies proposed resolutions associated with Section 504 violations.

Although special education law does not provide for a summary judgment procedure, here, District's motion is limited to matters that are facially outside of OAH jurisdiction.

Accordingly, the motion is granted. Allegations 13 and 14, and the associated resolutions, are dismissed and all references to violations of Section 504 of the Rehabilitation Act of 1973 shall be stricken from the complaint.

All previously set dates are confirmed.

IT IS SO ORDERED.

DATE: June 11, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings