

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOQUEL ELEMENTARY SCHOOL
DISTRICT.

OAH CASE NO. 2014080869

ORDER GRANTING MOTION TO
DISMISS AMERICANS WITH
DISABILITIES ACT CLAIM

On October 6, 2014, Student filed an amended Special Education Due Process Complaint Notice (first amended complaint), naming Soquel Elementary School District as the respondent.

On October 14, 2014, District filed a Motion to Dismiss Student's issue 4-1, contained in Student's first amended complaint, which alleged that District failed to offer Student a free appropriate public education for the 2014-2015 school year by failing to ensure that she had access to the classroom in compliance with the Americans With Disabilities Act. Student filed no opposition to the Motion.

The Office of Administrative Hearings received no response from Student to the Motion to Dismiss.

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 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 FAPE to the 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 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 the OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

DISCUSSION

Applying the authority cited above, issue 4-1 of Student's first amended complaint alleges a violation of the ADA. OAH has no jurisdiction over such a claim.

ORDER

1. District' Motion to Dismiss s granted as to issue 4-1.
2. The matter will proceed as scheduled as to the remaining issues.

DATE: October 24, 2014

/s/

ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings