

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ORANGE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015010754

ORDER GRANTING MOTION TO
PARTIALLY DISMISS CLAIMS

On January 21, 2015, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint), naming the Orange Unified School District.

On January 30, 2015, Orange filed a Motion to Dismiss Non-Special Education Aspects of Student's Issues, alleging that OAH lacks jurisdiction to adjudicate claims under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et. seq. (ADA).), the Civil Rights Act under title 42 of the United States Code, section 1983, and the No Child Left Behind Act of 2001 (20 U.S.C. § 6301 et seq.).

Student did not file an opposition to the Motion to Dismiss.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (IDEA) 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 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.)

DISCUSSION

Student's complaint consists of two issues. To the extent Student alleges a violation of her rights under the IDEA or state education law, OAH has jurisdiction. However, both of Student's issues also allege violations of Section 504 of the Rehabilitation Act, Section 1983 of title 42 of the United States Code, the ADA, and related state and federal civil rights law. Additionally, one of the issues alleges a violation of the No Child Left Behind Act. Orange is correct that these claims fall outside of the jurisdiction of OAH. Student acknowledged in her complaint that she was bringing such claims to exhaust her administrative remedies and that OAH was likely to dismiss them. OAH lacks jurisdiction to entertain claims based on the No Child Left Behind Act, Section 504 of the Rehabilitation Act of 1973, Section 1983, the ADA, and related state and federal civil rights laws. Accordingly, Orange's motion to dismiss such claims for lack of jurisdiction is granted.

ORDER

1. Orange's motion to dismiss those aspects of Student's claims which are not based upon state and federal special education law, specifically those arising under Section 504 of the Rehabilitation Act of 1973, Section 1983 of title 42 of the United States Code, the ADA, and the No Child Left Behind Act, is granted.

2. The matter will proceed to hearing as scheduled as to the remaining issues.

IT IS SO ORDERED.

DATE: February 5, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings