

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DAVIS JOINT UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015020031

ORDER GRANTING MOTION TO
DISMISS ISSUE FOUR

On January 30, 2015, Student filed a Due Process Hearing Request (complaint) naming Davis Joint Unified School District. The complaint alleged four issues. Issue Four alleged that District had violated Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and state civil rights laws.

On February 13, 2015, District filed a Motion to Dismiss, arguing that Issue Four was outside the jurisdiction of the Office of Administrative Hearings. As discussed below, the Motion is granted, and Issue Four is dismissed.

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” (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 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.)

OAH does not have jurisdiction to entertain claims based on Section 504 of the Rehabilitation Act of 1973, Section 1983 of Title 42 United States Code, or state civil rights laws. Accordingly, Issue Four is outside the jurisdiction of OAH and is dismissed.

ORDER

District's Motion to Dismiss Issue Four is granted. The matter will proceed as scheduled as to the remaining issues.

DATE: February 17, 2015

/s/

JUNE R. LEHRMAN

Administrative Law Judge

Office of Administrative Hearings