

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA CLARA COUNTY OFFICE OF
EDUCATION.

OAH Case No. 2015050597

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

On May 20, 2015, Student filed an amended complaint naming Santa Clara County Office of Education as respondent. Issue 4 in the amended complaint asserted that, “[t]he District violated Petitioner’s rights under section 504 of the Rehabilitation Act of 1973.” On June 19, 2015, Santa Clara filed a motion to dismiss Issue 4, asserting that the Office of Administrative Hearings lacks jurisdiction over the claim. Student did not file a response to Santa Clara’s motion.

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) [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 AND ORDER

OAH's jurisdiction does not extend to claims arising under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) Student's Issue 4 raises a claim falling squarely under section 504 and outside of OAH's jurisdiction. Accordingly, Student's Issue 4 is dismissed.

IT IS SO ORDERED.

DATE: July 1, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings