

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SIMI VALLEY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015060593

ORDER GRANTING MOTION TO
DISMISS CLAIM TWO

On June 1, 2015, Parent on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process naming Simi Valley Unified School District. The complaint contains two claims. The second claim alleges that Simi Valley was deliberately indifferent to Student being harassed and bullied in violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act 1990.

On June 15, 2015, Simi Valley filed with OAH a motion to dismiss the second claim on grounds that OAH lacks jurisdiction.

OAH received no response to the District's motion.

APPLICABLE LAW AND DISCUSSION

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.) Thus, OAH does not have jurisdiction to entertain claims based on Section 504, the ADA, or Title VI of the Civil Rights Act.

Here, the second claim is not within OAH's jurisdiction.

ORDER

Simi Valley's Motion to Dismiss Claim Two is GRANTED. The matter will proceed as scheduled as to the first claim only.

DATE: July 15, 2015

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings