

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2015050922

ORDER GRANTING MOTION TO
DISMISS NON-IDEA CLAIMS

On July 13, 2015, District filed a motion to dismiss those portions of Student's complaint which seek relief due to violations of Section 504 of the Rehabilitation Act (29 U.S.C. § 794), Title II of the Americans with Disabilities Act of 1973 (42 U.S.C. § 12131 *et. seq.*), and the First, Fourth and/or the Fourteenth Amendments to the United States Constitution. Student has not filed opposition to the motion.

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.)

Here, at page 2 of his complaint, Student seeks relief for violations of various federal statutes and constitutional provisions, including Section 504, the ADA, and the United States Constitution. These assertions are facially outside of OAH jurisdiction, which is limited to the IDEA.

ORDER

District's Motion to Dismiss is granted and all claims based upon Section 504, the Americans with Disabilities Act, and the United States Constitution are hereby dismissed from Student's complaint.

IT IS SO ORDERED.

DATE: July 20, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings