

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

ORANGE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015090598

ORDER GRANTING AMENDED
MOTION TO DISMISS PORTIONS OF
COMPLAINT

On September 11, 2015, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint), naming the Orange Unified School District as the respondent. The complaint contains two issues which were numbered one and four.

On September 21, 2015, District filed a Motion to Dismiss Portions of the Complaint. On September 22, 2015, District filed an Amended Motion to Dismiss Portions of the Complaint alleging that portions of the two issues alleged are beyond the jurisdiction of OAH. .

OAH received no response to the Amended Motion from Student.

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.)

In her complaint, Student alleges that District “violated the IDEA, Section 504 of the Rehabilitation Act of 1973, the ADA (Americans with Disabilities Act), the civil rights act under 42 U.S.C. § 1983, No Child Left Behind, and all related state and federal statutes when it failed to” (1) develop a comprehensive Individualized Education Program to address all of Student’s known/suspected needs; and (4) to provide highly trained personnel to work with Student who have the skills and knowledge necessary to address her unique needs.

OAH does not have jurisdiction to entertain claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), the ADA, Section 1983 of Title 42 United States Code or related state and federal statutes.

ORDER

District’s Motion to Dismiss Portions of the Complaint is granted as to all claims not related to those under the IDEA or Education Code section 5600 et seq. in Issues One and Four. The matter will proceed as scheduled as to Issues One and Four as they relate to the IDEA or Education Code section 5600 et seq.

IT IS SO ORDERED.

DATE: September 29, 2015

/s/
ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings