

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ORANGE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015100507

ORDER GRANTING MOTION TO
DISMISS ISSUE 12 OF STUDENT'S
COMPLAINT

On October 14, 2015, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint) naming Orange Unified School District as the respondent.

On October 29, 2015, Orange filed a motion to dismiss Student's Issue 12, arguing that OAH lacks jurisdiction to decide issues pertaining to alleged violations of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), and section 1983 of Title 42 United States Code. OAH received no response to the motion to dismiss.

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," 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 (29 U.S.C. § 701 et seq.) or section 1983 of title 42 United States Code (42 U.S.C. § 1983 et seq.).

DISCUSSION AND ORDER

Issue 12 in Student's complaint claims that Orange, by way of various acts and omissions, violated Student's rights under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and section 1983 of title 42 United States Code (42 U.S.C. § 1983 et seq.). OAH lacks jurisdiction to decide these claims. Accordingly, Student's Issue 12 is dismissed.

IT IS SO ORDERED.

DATE: November 5, 2015

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings