

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2018060401

ORDER DENYING MOTION TO
DISMISS ALLEGATIONS 1 AND 6
AND GRANTING MOTION TO
DISMISS ALLEGATION 13 OF THE
AMENDED COMPLAINT

On February 12, 2019, Student filed an amended complaint with the Office of Administrative Hearings naming Riverside Unified School District. On February 27, 2019, Riverside filed a Notice of Insufficiency and a Motion to Dismiss certain allegations of the complaint. On March 5, 2019, Student filed an opposition. The Notice of Insufficiency was handled in a separate Order.

OAH does not have jurisdiction to entertain claims based on Section 504, Section 1983, or other related state and federal civil rights laws. 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 a 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, the Motion to Dismiss seeks a ruling on Allegations 1, 6, and 13. Riverside claims Allegation 1 is moot, based upon assertions of unproven facts. It asserts Allegation 6 fails to state a claim under the Individuals with Disabilities Education Act because it asserts that Riverside failed to provide an accessible campus to Student and does not allege a denial of a free appropriate public education. Both allegations require findings of fact by the hearing officer. OAH does not have a procedure akin to a summary judgment. The motion to dismiss as to Allegations 1 and 6 is denied.

Allegation 13 exclusively asserts violations of Section 504, and is outside of OAH jurisdiction. Therefore, Allegation 13 is dismissed. All dates are confirmed, unless otherwise ordered.

IT IS SO ORDERED.

DATE: March 5, 2019

DocuSigned by:

Adrienne L. Krikorian

ADRIENNE L. KRIKORIAN

Administrative Law Judge

Office of Administrative Hearings