

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

**IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,**

v.

**FILLMORE UNIFIED SCHOOL DISTRICT, VENTURA COUNTY
OFFICE OF EDUCATION, AND VENTURA COUNTY SPECIAL
EDUCATION LOCAL PLAN AREA.**

OAH CASE NUMBER 2019050597

**ORDER GRANTING MOTION TO LIMIT REMEDIES AND DISMISS ISSUES
FOR LACK OF JURISDICTION**

On May 13, 2019, Parent on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Fillmore Unified School District, Ventura County Office of Education and Ventura County Special Education Local Plan Area. The Office of Administrative Hearings is referred to as OAH.

On August 3, 2019, Fillmore Unified filed a Motion to Dismiss or alternatively limit remedies alleging OAH lacks jurisdiction to adjudicate certain issues alleged in the complaint, and seeking dismissal of claims pursuant to a December 18, 2018 settlement agreement. Fillmore Unified seeks to limit remedies to the time period after June 30,

2019, based on the terms of the settlement agreement. Fillmore Unified also seeks dismissal of claims in the complaint that are outside of OAH jurisdiction.

On September 3, 2019, Student filed a response, in which Student agreed to limit remedies and acknowledged the lack of OAH jurisdiction as to some claims.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.), referred to as IDEA, 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 free appropriate public education 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 School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Student's complaint identifies two issues. Issue One asserts that the responding parties failed to offer a residential therapeutic center as an educational placement since January 31, 2019. Student seeks reimbursement of tuition and related costs. In her response, Student concedes that remedies shall be limited to costs incurred after June 30, 2019, pursuant to terms of the settlement agreement. Therefore, Fillmore's motion to limit remedies to after June 30, 2019, is granted.

Student's Issue Two asserts that the responding parties failed to ensure a free appropriate public education by denying Student a high school diploma in violation of the IDEA, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.), or any other civil rights act were outside of OAH jurisdiction. In her response, Student concedes that those claims arising under statutory provisions other than the IDEA are outside of OAH jurisdiction. She also concedes to dismissal of those claims resulting in an exhaustion of administrative remedies. OAH does not have jurisdiction to resolve claims in Issue Two arising under Section 504, the Americans with Disability Act, or federal and state civil rights acts. Fillmore's motion to dismiss is granted as to claims outside of OAH jurisdiction and as to all responding parties.

ORDER

1. Fillmore Unified's motion to limit Student's remedies to June 30, 2019, is granted.

2. Fillmore Unified's motion to dismiss claims outside of OAH jurisdiction is granted. The matter will proceed as scheduled as to the remaining issues.

DATED: September 3, 2019

DocuSigned by:

Adrienne L. Krikorian

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Adrienne L. Krikorian

Administrative Law Judge

Office of Administrative Hearings