

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080006

ORDER GRANTING MOTION TO DISMISS PORTIONS OF
ISSUES FOR LACK OF JURISDICTION

AUGUST 13, 2021

On July 29, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Saddleback Unified School District. The Office of Administrative Hearings is referred to as OAH.

On August 9, 2021, Saddleback Unified School District filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate certain portions of the issues alleged in the complaint. OAH received no response from Student.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (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 [i]dentification, 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 alleges in Student’s first issue that Saddleback Unified School District violated Student’s rights under the IDEA, Section 504 of the Rehabilitation Act of 1973, the American with Disabilities Act, called the ADA, the civil rights act under 42.U.S.C.

§1983, and denied Student a free appropriate public education, called a FAPE, by failing to assess Student in multiple areas of suspected disability. Student's second issue alleges Saddleback violated Student's rights under the IDEA, Section 504 of the Rehabilitation Act of 1973, the ADA, the civil rights act under 42.U.S.C. §1983, and denied Student a FAPE, by failing to offer Student an appropriate individualized educational plan, called an IEP.

Saddleback's motion argues OAH lacks jurisdiction over the portions of both of Student's issues which claim Saddleback violated Student's rights under Section 504 of the Rehabilitation Act of 1973, the ADA, and the civil rights act under 42.U.S.C. §1983, because those claims are outside of the IDEA. The complaint states that these claims are made, in part, to satisfy an exhaustion requirement under federal law. OAH does not have jurisdiction to resolve these claims. Accordingly, the portions of Student's issues one and two which allege Saddleback violated Student's rights under Section 504 of the Rehabilitation Act of 1973, the ADA, and the civil rights act under 42.U.S.C. §1983, are dismissed.

ORDER

1. Saddleback Unified School District's Motion to Dismiss is granted as to the portions of Issues 1 and 2 which allege Saddleback Unified School District violated Section 504 of the Rehabilitation Act of 1973, the ADA, and the civil rights act under 42.U.S.C. §1983. The matter will proceed as scheduled as to the remaining portions of Issues 1 and 2.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings