

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080708

ORDER GRANTING MOTION TO DISMISS ISSUES FOR
LACK OF JURISDICTION

SEPTEMBER 9, 2021

On August 24, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Capistrano Unified School District. The Office of Administrative Hearings is referred to as OAH.

On September 3, 2021, Capistrano filed a Motion to Dismiss, alleging that OAH lacks jurisdiction to adjudicate certain 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 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

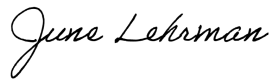
In Issue 1 in the complaint, Student contends that Capistrano violated the IDEA and Section 504 of the Rehabilitation Act of 1973, Section 1983 of Title 42 United States Code, and the Americans with Disability Act. OAH does not have jurisdiction to resolve

the non-IDEA claims. Accordingly, to the extent it comprises allegations arising under Section 504 of the Rehabilitation Act of 1973, Section 1983 of Title 42 United States Code, and the Americans with Disability Act, Issue 1 is partially dismissed.

ORDER

1. Capistrano's Motion to Dismiss is granted as to allegations stated within Issue 1 arising under Section 504 of the Rehabilitation Act of 1973, Section 1983 of Title 42 United States Code, and the Americans with Disability Act. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "June Lehrman".

June Lehrman

Administrative Law Judge

Office of Administrative Hearings