

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

WESTSIDE UNION SCHOOL DISTRICT, STATE OF CALIFORNIA,
CALIFORNIA STATE BOARD OF EDUCATION, AND
CALIFORNIA DEPARTMENT OF EDUCATION.

OAH CASE NUMBER 2021090703

ORDER GRANTING MOTION TO DISMISS FOR LACK OF
JURISDICTION

OCTOBER 07, 2021

On September 21, 2021, Parent on behalf of Student filed a Request for Due Process Hearing, called complaint, with the Office of Administrative Hearings, called OAH, naming Westside Union School District, State of California, California State Board of Education, and California Department of Education.

On September 27, 2021, California State Board of Education and California Department of Education filed a Motion to Dismiss, alleging OAH lacks jurisdiction to

adjudicate certain issues alleged in the complaint. OAH received no response from Student or the State of California.

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

Student alleges three issues in the complaint. Students' first issue alleges violations of the Individuals with Disabilities Education Act and is solely against Westside Union School District. Student's second and third issues allege violations of the Americans with Disability Act and Section 504 of the Rehabilitation Act of 1973, respectively. Issues two and three are against against the State of California, California State Board of Education, and California Department of Education.

In the motion, California State Board of Education and California Department of Education correctly assert that OAH lacks jurisdiction over issues two and three because they fall outside of OAH's jurisdiction. By the above authority, OAH does not have jurisdiction to resolve claims related to the Americans with Disability Act and Section 504 of the Rehabilitation Act of 1973. Accordingly, issues two and three are dismissed. Consequently, because California State Board of Education, and California Department of Education are not named in issue one, those parties are dismissed from this matter.

ORDER

1. California State Board of Education and California Department of Education's Motion to Dismiss is granted as to issues two and three.
2. California State Board of Education and California Department of Education are dismissed from this matter.
3. The matter shall proceed as scheduled as to the remaining issue, unless otherwise ordered.

IT IS SO ORDERED.


Paul H. Kamoroff (Oct 7, 2021 10:51 PDT)

Paul H Kamoroff

Administrative Law Judge

Office of Administrative Hearings