

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021090789

ORDER PARTIALLY GRANTING MOTION TO DISMISS AS
TO ISSUES ONE AND TWO FOR LACK OF JURISDICTION

OCTOBER 1, 2021

On September 24, 2021, Parents on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Huntington Beach Union High School District. The Office of Administrative Hearings is referred to as OAH.

On September 29, 2021, Huntington Beach filed a motion to dismiss the complaint alleging lack of jurisdiction. On September 30, 2021, Student filed opposition to the motion.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act , called 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,” 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). Further, OAH has no jurisdiction to entertain claims seeking review of guidelines under the California Department of Public Health or any federal public health guidelines.

DISCUSSION

Student alleges three issues in this matter. Huntington Beach asserts OAH lacks jurisdiction over all of Student's issues and requests the complaint be dismissed in its entirety.

Student's issue one alleges that Parent should not have to provide a medical exemption to Huntington Beach for Student to receive a face covering exemption at school. Additionally, Parent takes issue with public health mask guidelines as they relate to face coverings in the school setting, and Huntington Beach's decision regarding those guidelines by requiring Student to wear a face covering at school.

As written, issue one does not fall under the IDEA purview. Parent failed to state how this situation violates the IDEA or denied Student a free appropriate public education. Accordingly, Student's issue one is dismissed for lack of jurisdiction.

Student's issue two asserts a Huntington Beach employee threatened Parent and Student and represented that Student cannot attend school if he does not wear a mask and will not be educated, receive assignments, or have the ability to make up work.

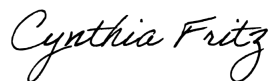
As written, issue two does not describe how this situation is a violation of a free appropriate public education and violates the IDEA. Student does not identify under which statutory scheme the claim related to threats is made. Further, the issue does not identify facts that would place the issue within a claim arising under the IDEA. Thus, Student's issue two is dismissed because OAH has no jurisdiction to entertain outright claims related to threats, and Student failed to connect any allegation related to assignments or make up work to an IDEA violation. Accordingly, Student's Issue two is dismissed.

Student's issue three alleges that Student, who is currently on an individualized education program, is unable to attend distance learning because it does not work and Student needs one-to-one instruction. This claim may relate to the IDEA and requires findings of fact by a hearing judge and a determination on the merits. Accordingly, Huntington Beach's motion to dismiss Issue three is denied.

ORDER

1. Huntington Beach's motion to dismiss Issue one in Student's complaint is granted.
2. Huntington Beach's motion to dismiss Issue two in Student's complaint is granted.
3. Huntington Beach's motion to dismiss Issue three is denied. The matter shall proceed as scheduled as to Student's Issue three.

IT IS SO ORDERED.



Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings