

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

BRENTWOOD UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2021100176

ORDER GRANTING MOTION TO DISMISS ISSUE 5 FOR
LACK OF JURISDICTION

OCTOBER 29, 2021

On October 7, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Brentwood Union School District. The Office of Administrative Hearings is referred to as OAH.

On October 25, 2021, Brentwood filed a Motion to Dismiss Issue 5 alleging OAH lacks jurisdiction to adjudicate that issue. Student did not respond to Brentwood's motion.

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 five issues in the complaint. Brentwood asserts OAH lacks jurisdiction over Issue 5. Student’s Issue 5 alleges Brentwood’s acts during the relevant statutory period violated Student’s and Parents’ rights under Section 504, the ADA, Title

VI, and other related civil rights statutes. Student states in the complaint that the claim is made to satisfy an exhaustion requirement under federal law. OAH does not have jurisdiction to resolve Issue 5. Accordingly, Issue 5 is dismissed.

ORDER

1. Brentwood's Motion to Dismiss is granted as to Issue 5. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Linda Johnson

Linda Johnson

Administrative Law Judge

Office of Administrative Hearings