

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021120038

ORDER GRANTING MOTION TO DISMISS ISSUE SIX FOR
LACK OF JURISDICTION

DECEMBER 17, 2021

On December 1, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Santa Monica-Malibu Unified School District. The Office of Administrative Hearings is referred to as OAH.

On December 13, 2021, Santa Monica-Malibu Unified School District filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate Issue Six alleged in the complaint. 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

Student’s Issue Six alleges 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, and the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.

District asserts OAH lacks jurisdiction over these claims because 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).

Accordingly, Student's Issue Six is dismissed.

ORDER

1. Santa Monica-Malibu Unified School District's Motion to Dismiss is granted as to Issue Six. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Judith Pasewark

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Administrative Law Judge

Office of Administrative Hearings