

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

NORWALK-LA MIRADA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010112

ORDER GRANTING MOTION TO DISMISS ISSUES FOR
LACK OF JURISDICTION

JANUARY 27, 2022

On January 5, 2022, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Norwalk-La Mirada Unified School District as respondent. The Office of Administrative Hearings is referred to as OAH.

On January 21, 2022, Norwalk-La Mirada filed a Motion to Dismiss section 504 of the Rehabilitation Act of 1973, and 42 U.S.C. section 1983 claims. Norwalk-La Mirada alleges OAH lacks jurisdiction to adjudicate those issues alleged in the complaint. OAH received no response to the motion from Student.

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.) or Section 1983 of Title 42 United States Code.

Student alleges three issues which include assertions that Norwalk-La Mirada violated to Section 504 of the Rehabilitation Act of 1973 and Section 1983 of Title 42 of the United States Code, in addition to claims the IDEA was violated. OAH does not have jurisdiction to resolve these claims. Accordingly, the 504 and 1983 aspects of Student’s issues are dismissed.

ORDER

1. Norwalk-La Mirada's Motion to Dismiss is granted to the extent Issues number 1, 2, and 3, assert claims pursuant to Section 504 of the Rehabilitation Act of 1973 or claims pursuant to Section 1983 of title 42 of the United States Code. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Penelope S. Pahl

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Administrative Law Judge

Office of Administrative Hearings