

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010494

ORDER DENYING MOTION TO DISMISS ISSUE FOR LACK
OF JURISDICTION

FEBRUARY 3, 2022

On January 19, 2022, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Capistrano Unified School District. On January 28, 2022, Capistrano filed a Motion to Dismiss Issue Four of the complaint on the grounds that OAH does not have jurisdiction to decide the issue. Student did not respond to Capistrano's motion.

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.), called IDEA, 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.)

Capistrano argues part of Issue Four in the complaint asserts claims related to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701 et seq.), and that OAH does not have jurisdiction to decide these claims. Issue Four alleges Capistrano failed to provide appropriate services to Student during the Covid-19 shutdown and distance learning. In the supporting facts of this issue, the complaint references Capistrano's failure to fully implement Student's 504 plan and alleges that this failure denied Student a free appropriate public education.

While OAH does not have jurisdiction to decide issues related to Section 504, it is not clear in the plain language of Issue Four whether Student asserts a Section 504 claim, an IDEA claim, or both. Thus, it is premature to dismiss Issue Four without further

clarification on what Student is alleging. The parties can discuss and clarify the issues at the prehearing conference. Accordingly, the Motion to Dismiss is denied without prejudice.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings