

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VENTURA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022020094

ORDER DENYING MOTION TO DISMISS ISSUE FOR LACK

OF JURISDICTION

FEBRUARY 24, 2022

On February 1, 2022, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Ventura Unified School District. On February 17, 2022, Ventura filed a Motion to Dismiss and a Notice of Insufficiency. On February 22, 2022, OAH determined the complaint was sufficient, so this Order only addresses the Motion to Dismiss. On February 23, 2022, Student filed an opposition to Ventura's motion.

Ventura argues Issue Two of the complaint alleges violations under the Family Educational Rights and Privacy Act and that OAH does not have jurisdiction to decide such claims. Student argues Issue Two is within OAH's jurisdiction because it alleges

claims related to a denial of a free appropriate public education and Parents' ability to meaningfully participate in the individualized education program process.

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.)

Issue Two alleges Ventura's refusal to expunge private, misleading, and/or inaccurate information from Student's education file denied Student a free appropriate public education. Further, Issue Two alleges Ventura's refusal to remove the information

negatively impacted Parents' ability to meaningfully participate in the individualized education program process. OAH has jurisdiction to decide these allegations. Accordingly, Ventura's Motion to Dismiss is denied. The case will proceed as scheduled.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings