

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VACAVILLE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023110125

ORDER GRANTING MOTION TO DISMISS ISSUES FOR

LACK OF JURISDICTION

JANUARY 18, 2024

On November 1, 2023, Parents on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Vacaville Unified School District. The Office of Administrative Hearings is referred to as OAH.

On January 8, 2024, Vacaville filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate issue 13 in the complaint. OAH received 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. §§ 12101 et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Student’s complaint alleges 13 issues. Vacaville asserts OAH lacks jurisdiction over issue 13, which alleges the denial of FAPE resulted in a denial of Student’s rights

under Section 504, ADA, and State civil rights laws. OAH does not have jurisdiction to resolve Student's claim in issue 13. Accordingly, issue 13 of the complaint is dismissed.

ORDER

Vacaville's Motion to Dismiss issue 13 is granted.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings