

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024051010

ORDER GRANTING MOTION TO DISMISS ISSUES FOR

LACK OF JURISDICTION

JUNE 13, 2024

On May 29, 2024, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming San Jose Unified School District, called San Jose. The Office of Administrative Hearings is referred to as OAH.

On June 12, 2024, San Jose filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate Student's Issue Six as alleged in the complaint. On June 13, 2024, Student filed a non-opposition to San Jose's Motion to Dismiss on the grounds that OAH lacks jurisdiction as to Student's Issue Six.

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 Disabilities Act (42 U.S.C. §§ 12101, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Student’s complaint alleges six separate issues. San Jose asserts OAH lacks jurisdiction over Student’s Issue Six, because it expressly raises claims under 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 Disabilities Act (42 U.S.C. §§ 12101, et seq.). OAH does not have jurisdiction to resolve these claims. Student does not object. Accordingly, Student's Issue Six is dismissed.

ORDER

1. San Jose'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.

Ashok Pathi

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Administrative Law Judge

Office of Administrative Hearings