

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CABRILLO POINT ACADEMY.
OAH CASE NUMBER 2024120530

ORDER GRANTING MOTION TO DISMISS ISSUES NINE
AND TEN OF STUDENT'S COMPLAINT FOR LACK OF
JURISDICTION

JANUARY 3, 2025

On December 12, 2024, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Cabrillo Point Academy. The Office of Administrative Hearings is referred to as OAH.

On December 24, 2024, Cabrillo Point Academy filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate Issues Nine and Ten alleged 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 Issue Nine alleges that Cabrillo Point Academy violated Student’s rights under Section 504 of the Rehabilitation Act of 1973. Student’s Issue Ten alleges that Cabrillo Point Academy violated Student’s rights under Title II of the Americans with

Disabilities Act. OAH lacks jurisdiction to decide claims alleging violations of these legal provisions. Accordingly, Issues Nine and Ten of Student's due process complaint are dismissed.

ORDER

1. Cabrillo Point Academy's Motion to Dismiss Issues Nine and Ten of Student's complaint is granted.
2. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Rita Defilippis

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Administrative Law Judge

Office of Administrative Hearings