BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

UPLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019080542

ORDER GRANTING MOTION TO DISMISS ISSUE FOR LACK OF JURISDICTION

On August 13, 2019, Parents on behalf of Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Upland Unified School District. The Office of Administrative Hearings is referred to as OAH.

On September 25, 2019, Upland Unified filed a Motion to Dismiss Issue 8 of Student's complaint, alleging that OAH lacks jurisdiction to adjudicate this issue. 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. §§ 1201, et seq.), California Government Code section 11135, California Civil Code sections 54 and 54.1, or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Issue 8 of Student's complaint alleges violations of Section 504 of the Rehabilitation Act of 1973, Section 1983 of Title 42 United States Code, the Americans with Disability Act, California Government Code section 11135, California Civil Code sections 54 and 54.1, and the Unruh Civil Rights Act. OAH does not have jurisdiction to resolve these claims. Accordingly, Issue 8 of Student's Complaint is dismissed.

ORDER

1. Upland Unified's Motion to Dismiss Issue 8 of Student's complaint is granted. The matter will proceed as scheduled as to the remaining issues.

DATED: October 1, 2019

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Rommel P. Cruz
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Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings