

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VENTURA COUNTY OFFICE OF  
EDUCATION & PLEASANT VALLEY  
SCHOOL DISTRICT.

OAH CASE NO. 2010080338

ORDER GRANTING MOTION TO  
DISMISS NON-IDEA CLAIMS

On August 12, 2010, Student filed an amended due process request naming Ventura County Office of Education (VCOE) and Pleasant Valley School District (District) as respondents. Student alleged one issue: That VCOE and District's refusal to allow Student to use his service dog at school violated IDEA, section 504 of the Rehabilitation Act, and Civil Code sections 54.1 and 54.2. On August 30, 2010, VCOE and District filed a motion to dismiss the alleged violations of section 504 of the Rehabilitation Act and Civil Code sections 54.1 and 54.2 on the ground that the jurisdiction of OAH is limited to the IDEA claim. Student opposed the motion on September 9, 2010, and VCOE and District filed a reply that same day. As discussed below, because OAH's jurisdiction is limited to IDEA claims, the alleged violations of section 504 of the Rehabilitation Act and sections 54.1 and 54.2 of the Civil Code must be dismissed from the amended complaint.

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education" (FAPE), 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 FAPE 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 Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) OAH does not have jurisdiction to entertain claims based on section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) or claims that seek to apply California law that is unrelated to the IDEA.

Here, VCOE and District are correct that OAH has no jurisdiction over violations of section 504 of the Rehabilitation Act or claims that a particular agency violated a provision of California law unrelated to the IDEA. In other words, the only claim that Student can raise before OAH is whether the failure of VCOE and District to allow the use of Student's service dog violated Student's right to a FAPE. All other claims must be dismissed.

#### ORDER

1. VCOE and District's Motion to Dismiss non-IDEA issues is granted. Accordingly, to the extent the amended due process hearing request alleges violations of section 504 of the Rehabilitation Act and Civil Code sections 54.1 and 54.2, those allegations are dismissed and will not be ruled on by OAH.
2. The sole issue for hearing is: Whether VCOE and District denied Student a FAPE under the IDEA by not allowing Student's service dog at a school campus.
3. All previously scheduled dates remain on calendar.

IT IS SO ORDERED.

Dated: September 13, 2010

/s/

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RICHARD T. BREEN  
Administrative Law Judge  
Office of Administrative Hearings