

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MORONGO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010080844

ORDER GRANTING MOTION TO  
DISMISS

On August 25, 2010, Parents on behalf of Student (Student) filed a request for due process hearing (complaint) against Morongo Unified School District (District) as respondents.

On August 30, 2010, the District filed a motion to dismiss Issue I from Student's complaint. Student has not filed an opposition to the District's motion.

APPLICABLE LAW

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.)

DISCUSSION

Student's Issue I alleges that the District has discriminated against Student in violation of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. As indicated above, the jurisdiction of OAH is limited to complaints involving 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; 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; and matters involving 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. 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 Section 1983 of Title 42 United States Code.

ORDER

The District's Motion to Dismiss as to Issue I of Student's complaint is granted. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Dated: September 02, 2010

/s/

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JUDITH PASEWARK  
Administrative Law Judge  
Office of Administrative Hearings