

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED  
SCHOOL DISTRICT.

OAH CASE NO. 2011050850

ORDER GRANTING MOTION TO  
DISMISS ISSUE FOUR

On May 31, 2011, Saddleback Valley Unified School District (District) filed a motion to dismiss issue four and two of the proposed remedies set forth in Student’s due process request. No response has been received to that motion.

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.), the Americans with Disabilities Act (ADA) or the Unruh Act.

Student’s Issue Four alleges that the District denied Student rights under Section 504, the ADA and the Unruh Act. Those allegations are beyond the jurisdiction of OAH and are hereby dismissed.

The District also moves to dismiss Student’s proposed remedies which seek assessments in the areas of assistive technology and auditory processing. The District claims that it has already offered to provide those assessments.

While OAH may dismiss claims which are beyond its jurisdiction, special education law does not provide for motions for summary judgment or summary adjudication of issues. The District's motion to dismiss the proposed remedies is, in effect, a motion for summary adjudication of those remedies. It is hereby denied.

ORDER

1. District's Motion to Dismiss Issue Four is granted. Issue Four is hereby dismissed from the case.
2. The matter will proceed as scheduled on the remaining issues.
3. The District's motion to dismiss Student's proposed remedies is denied.

IT IS SO ORDERED.

Dated: June 7, 2011

/s/  
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SUSAN RUFF  
Administrative Law Judge  
Office of Administrative Hearings