

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011120965

ORDER GRANTING IN PART
MOTION TO DISMISS

On December 30, 2011, Parent on behalf of Student (Student) filed a Request for Due Process Hearing (complaint), naming Saddleback Valley Unified School District (District). On January 18, 2012, the District filed a Motion to Dismiss portions of Student’s complaint as it relates to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and Section 1983 of Title 42 United States Code. Student did not file 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.)

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.) and/or Section 1983 of Title 42 United States Code.

DISCUSSION

In the present matter, Student has alleged violations of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and Section 1983 of Title 42 United States Code. OAH has no jurisdiction over these claims, and therefore, all references to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and Section 1983 of Title 42 United States Code are dismissed from Student's complaint.

ORDER

Saddleback Valley Unified School District's Motion to Dismiss is granted as to all issues arising under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and Section 1983 of Title 42 United States Code. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Dated: January 30, 2012

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings