

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

GUARDIAN ON BEHALF OF STUDENT,

v.

STOCKTON UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012020002

ORDER GRANTING MOTION TO  
DISMISS SPECIFIED CLAIMS

On January 27, 2012, Student filed a Request for Due Process Hearing, expedited and nonexpedited (complaint), against the Stockton Unified School District (District). On February 9, 2012, the District filed a Motion to Dismiss specific portions of Student's complaint for allegation claims that the Office of Administrative Hearings (OAH) does not have jurisdiction to hear. On February 15, 2012, Student filed an opposition.

APPLICABLE LAW

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.) (Section 504), gender discrimination, and Section 1983 of Title 42 United States Code.

DISCUSSION

Student's complaint contains three issues against the District. In Issue 1, Student alleges that the District violated her civil and due process rights and right to privacy by improperly disclosing confidential information to unauthorized persons. OAH does not have jurisdiction to hear Issue 1 as Student alleges violations of Federal and California constitutional rights as OAH's jurisdiction is limited to violations of special education laws under Federal and California law. Accordingly, Issue 1 is dismissed.

As to Issue 2, Student alleges that the District improperly determined at the manifestation determination meeting that her disciplinary conduct was not a manifestation of her disability. Included in Issue 2 is an allegation that the District also violated Section 504. As OAH does not have jurisdiction to hear claims under Section 504, and accordingly, that portion of Issue 2 is dismissed.

Finally as to Issue 3, Student alleges that the District failed to adequately address her anger management issues, especially by not conducting a functional behavior assessment. Additionally, Student alleges that the District violated Section 504 and makes allegations of gender discrimination. OAH lacks jurisdiction to hear claims involving Section 504 and gender discrimination, and therefore these claims are dismissed from Issue 3.

ORDER

1. The District's Motion to Dismiss as to Issue 1 is granted.
2. The District's Motion to Dismiss Student's Section 504 claims from Issue 2 is granted.
3. The District's Motion to Dismiss Student's Section 504 and gender discrimination claims from Issue 3 is granted.
4. The matter shall proceed as scheduled as to the remaining claims in Issues 2 and 3.

Dated: February 16, 2012

/s/  
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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings