

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2016020203

ORDER GRANTING DISTRICT'S  
MOTION TO DISMISS ISSUE 4

Student filed a request for due process (complaint) on January 29, 2016, naming the Capistrano Unified School District. On February 26, 2016, District filed a motion to dismiss issue four of the complaint. District contends the matters raised in that issue are beyond the jurisdiction of the Office of Administrative Hearings.

On February 29, 2016, Student filed a notice of non-opposition to District's motion.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education”, 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 other federal statutes such as Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 701 et seq.) or the Americans with Disability Act (ADA) (Title 42 U.S.C. §§ 12101, et seq.). Nor does OAH have jurisdiction over claims brought under California's Unruh Act (Civ.Code, § 51.)

## DISCUSSION AND ORDER

In issue four of her complaint, Student alleges that District violated Section 504, the Unruh Civil Rights Act, and Title I of the ADA during the 2015-2016 school year by “[r]etaliating and interfering against Parent when District purposely held an IEP meeting without Parent’s presence . . . .” OAH does not have jurisdiction to consider claims under the Unruh Act, Section 504 or the ADA. District’s motion to dismiss issue four of Student’s complaint is granted. This matter shall proceed as scheduled as to the remaining issues raised in Student’s complaint.

IT IS SO ORDERED.

DATE: March 1, 2016

DocuSigned by:

*Darrell Lepkowsky*

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings