

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2016050747

ORDER GRANTING MOTION TO  
DISMISS ISSUE 8

Student filed a due process hearing complaint on May 13, 2016, naming Garden Grove Unified School District as respondent. On May 24, 2016, Garden Grove filed a motion to dismiss Student's Issue Number 8 in the complaint that alleges Garden Grove discriminated against Student based on his disability thereby violating Section 504 of the Rehabilitation Act of 1973 (Section 504). Student did not respond to Garden Grove's motion to dismiss this issue.

LEGAL AUTHORITY

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.)

## DISCUSSION AND ORDER

OAH does not have jurisdiction to entertain claims based on Section 504 of the Rehabilitation Act of 1973. Therefore, Garden Grove's Motion to Dismiss Issue 8 in Student's complaint regarding an alleged violation of Section 504 is granted.

IT IS SO ORDERED.

DATE: June 2, 2016

DocuSigned by:  
*Joy Redmon*  
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JOY REDMON  
Administrative Law Judge  
Office of Administrative Hearings