

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. 2011090961

ORDER GRANTING MOTION TO
DISMISS

On September 28, 2011, Parents on behalf of Student (Student) filed a Due Process Request (complaint) naming the Saddleback Valley Unified School District (District) as respondent. The complaint contains two issues. The first issue alleges that the District has failed to provide Student with a free appropriate public education (FAPE) for school years 2010-2011 and 2011-2012 in violation of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504). Issue two alleges that the District deprived Student of a FAPE by failing in its child find obligations.¹

On October 6, 2011, the District filed a Response to Complaint and Motion to Dismiss. In its motion, the District seeks dismissal of all claims pled under Section 504. Student has not filed a response to the District's 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

¹ Student fails to cite statutory authority for Issue Two.

jurisdiction to entertain claims based on [Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.)/Section 1983 of Title 42 United States Code].

ORDER

District's Motion to Dismiss is granted as to any claims made pursuant to Section 504 of the Rehabilitation Act. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Dated: October 24, 2011

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings