

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2011100460

ORDER GRANTING PARTIAL  
MOTION TO DISMISS

On October 24, 2011, District filed a motion to partially dismiss claims from Student's complaint that arise out of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) (Section 504), the civil rights act under 42 U.S.C. 1983 (Section 1983), or other related state and federal civil rights laws. Student did not oppose the motion. For the reasons discussed below, the motion is granted.

OAH does not have jurisdiction to entertain claims based on Section 504, Section 1983, or other related state and federal civil rights laws. 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 a 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.)

Each of the four issues in Student's complaint alleges claims under Section 504, Section 1983 and other related state and federal civil rights laws. Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc.....), special education law does not provide for a summary judgment procedure. Here, District's motion is limited to matters that are facially outside of OAH jurisdiction.

Accordingly, District's motion is granted. To the extent that Student's claims seek a finding under Section 504, Section 1983, or any other related state and federal civil rights laws that are not part of the IDEA, those claims are dismissed.

IT IS SO ORDERED.

Dated: October 28, 2011

/s/

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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings