

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT AND ORANGE COUNTY  
DEPARTMENT OF EDUCATION.

OAH CASE NO. 2012020831

ORDER GRANTING MOTION TO  
DISMISS SPECIFIC CLAIMS

On February 21, 2012, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH), naming the Capistrano Unified School District (District) and Orange County Department of Education (OCDOE). On February 24, 2012, OCDOE filed a Motion to Dismiss specific claims for being outside the scope of OAH's jurisdiction. OAH received no response to the Motion to Dismiss from Student.

APPLICABLE LAW and DISCUSSION

OAH does not have jurisdiction to entertain claims based on Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code (Section 1983), and under No Child Left Behind (NCLB) (34 C.F.R. §§ 300.18(f) and 300.156(e) (2006)).

In the present matter, Student alleges in all six issues for hearing that the District and OCDOE violated Section 504, Section 1983, and NCLB, which OAH does not have jurisdiction to hear. Accordingly, Student's claims that the District and OCDOE violated Section 504, Section 1983 and NCLB are dismissed, and the matter shall proceed as to Student's remaining special education claims.

ORDER

OCDOE's Motion to Dismiss specific claims is granted. The matter will proceed as scheduled as to the remaining claims against the District and OCDOE.

Dated: March 6, 2012

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings