

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. 2012030058

ORDER GRANTING PARTIAL  
MOTION TO DISMISS

On March 12, 2012, District filed a partial motion to dismiss on the ground that seven of the eight claims in Student’s complaint included alleged violations of statutory provisions over which the Office of Administrative Hearings (OAH) has no jurisdiction. OAH received no response to District’s motion from Student.

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 jurisdiction to entertain claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) (Section 504), Section 1983 of Title 42 United States Code (Section 1983), No Child Left Behind and related state and federal statutes and regulations. Here, all but claim number four in Student’s complaint allege violations of some or all of the following: Section 504, Section 1983, No Child Left Behind and related state and federal statutes and regulations.

Accordingly, District's motion is granted as to those allegations and claims, only. All reference to Section 504, Section 1983, No Child Left Behind and any related state and federal statutes and regulations are stricken from the complaint and dismissed. Claims one through eight shall proceed to hearing on the alleged violations of the IDEA only. All dates shall remain as scheduled unless otherwise ordered.

IT IS SO ORDERED.

Dated: March 26, 2012

/s/

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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings