

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013090293

ORDER GRANTING MOTION TO
DISMISS CLAIM

On December 2, 2013, Student filed a Second Amended Complaint (complaint), naming Torrance Unified School District (District) as the respondent. On December 26, 2013, District filed a Motion to Dismiss a claim arising under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, for lack of jurisdiction. On December 27, 2013, Student filed a Notice of Non-Opposition.

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.) or the ADA. For that reason, Student’s claim arising thereunder is dismissed.

ORDER

Student's claim arising under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 is dismissed.

Dated: January 21, 2014

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings