

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO-FOSTER CITY SCHOOL
DISTRICT.

OAH CASE NO. 2013110232

ORDER GRANTING MOTION TO
DISMISS ISSUES SEVEN, EIGHT AND
NINE

On November 25, 2013, Parent on behalf of Student (Student) filed an Amended Request for Due Process Hearing (amended complaint), naming San Mateo-Foster City School District (District) as the respondent.

On December 2, 2013, the District filed a [Motion to Dismiss, alleging that Student's Issues Seven, Eight and Nine, are based on Section 504 of the Rehabilitation Act of 1973 and Section 1983 of Title 42 United States Code. OAH received no response to the Motion to Dismiss from Student.

APPLICABLE LAW AND DISCUSSION

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.) and Section 1983 of Title 42 United States Code.

ORDER

1. The District's Motion to Dismiss Student's Issues Seven, Eight and Nine is granted.

IT IS SO ORDERED.

Dated: December 09, 2013

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings