

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PLACENTIA-YORBA LINDA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2014061022

ORDER GRANTING DISTRICT'S
PARTIAL MOTION TO DISMISS
(ADA/SECTION 504)

On June 18, 2014, Parent on behalf of Student filed a due process hearing request (complaint) naming Placentia-Yorba Linda Unified School District (District).

On June 30, 2014, District filed a partial motion to dismiss, seeking dismissal of those portions of Section VI of Student's complaint (specifically, VI(2) and VI(3)) alleging that District violated Student's rights under the Americans with Disabilities Act (42 U.S.C. 12101 et seq. (ADA)) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. (Section 504)). No opposition has been received.

APPLICABLE LAW

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 the Office of Administrative Hearings (OAH) is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

DISCUSSION

Student's complaint alleges that although he graduated with a regular high school diploma while eligible for special education, Student continues to exhibit poor social skills and behavior for which he seeks compensatory education. In addition to alleging that he was denied a FAPE by District, Student alleges in Section VI, subsections (2) and (3), of his complaint that District engaged in practices towards disabled students that violated the rights of Student "and others similarly situated" under the ADA and Section 504.

OAH does not have jurisdiction to hear claims brought under the ADA or Section 504. Accordingly, District's partial motion to dismiss Sections VI(2) and VI(3) of Student's complaint, which do not arise under the IDEA, is granted.

ORDER

1. District's partial motion to dismiss Sections VI(2) and VI(3) of Student's complaint, arising under the ADA and Section 504, is granted.
2. The matter will proceed as scheduled as to the remaining portions of Student's complaint, except as provided in the concurrent order dismissing Student's "systemic" claims at Section VI(1).

DATE: July 8, 2014

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings