

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. 2014080293

ORDER GRANTING MOTION TO
DISMISS CLAIMS OUTSIDE OF OAH
JURISDICTION

On August 18, 2014, Capistrano Unified School District filed a partial motion to dismiss claims in Student's complaint. Specifically, District seeks dismissal of what Student characterized as "Allegation #8" which alleges that District discriminated against Student in violation of Section 504 of the Rehabilitation Act of 1973. OAH did not receive a response from Student.

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc....), special education law does not provide for a summary judgment procedure. Here, the Motion is limited only to "Allegation #8" and specifically claims that District discriminated against Student in violation of Section 504, which is outside of OAH jurisdiction.

Accordingly, the motion is granted. All claims alleging a violation of Section 504 of the Rehabilitation Act of 1973 are dismissed. The matter shall proceed to hearing on all other issues in the complaint, as limited in this Order, unless otherwise ordered. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: August 25, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings