

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. 2014110622

ORDER GRANTING MOTION TO
DISMISS ISSUE 14

On November 17, 2014, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing naming the Placentia-Yorba Linda Unified School District as respondent. The complaint contains 14 issues which are referred to as allegations. Issue 14 alleges that the District discriminated against Student in violation of Section 504 of the Rehabilitation Act of 1973, by limiting Student's parents from observing her in her child care program.

On November 14, 2014, Placentia-Yorba Linda filed a Motion for Dismissal of Issue 14, alleging that OAH is without jurisdiction to hear claims based on Section 504 of the Rehabilitation Act of 1973.

OAH received no response to the District's motion.

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" 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.) Thus, 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.).

ORDER

Placentia-Yorba Linda's Motion to Dismiss Issue 14 is GRANTED. Issue 14 is hereby dismissed. The matter will proceed as scheduled.

IT IS SO ORDERED.

DATE: November 25, 2014

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings