

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

PLACENTIA-YORBA LINDA UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2015010542

ORDER GRANTING MOTION TO
DISMISS ISSUE

On January 15, 2015, Parents on behalf of Student (Student), through their attorney, filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings naming the Placentia-Yorba Linda Unified School District (Placentia-Yorba Linda). Student's complaint identified 12 issues, including one issue (Issue 12), which alleges violations under Title V of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. (Section 504)).

On January 26, 2015, the attorney for Placentia-Yorba Linda filed a motion to dismiss Issue 12 brought under Section 504, contending that OAH lacks jurisdiction over claims filed under Section 504. No response or opposition has been received from Student.

APPLICABLE LAW

The purpose of 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.)

DISCUSSION

In this case, Student's Issue 12 alleges that Placentia-Yorba Linda discriminated against her based on her disability in violation of Section 504. OAH does not have jurisdiction to hear claims brought under Section 504. Therefore, Placentia-Yorba Linda's motion to dismiss Issue 12 in Student's complaint must be granted, and the proposed resolution requested by Student for the alleged violation of her Section 504 rights must be stricken.

ORDER

1. Placentia-Yorba Linda's motion to dismiss Issue 12 in Student's complaint is GRANTED, and Proposed Resolution 9 relating to the alleged violations under Section 504 is stricken.
2. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

DATE: February 5, 2015

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings