

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OCEANSIDE UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015041216

ORDER GRANTING MOTION TO  
DISMISS STUDENT’S ISSUE SEVEN

On September 9, 2015, Office of Administrative Hearings granted Student’s Request to File an Amended Request for Due Process Hearing, naming Oceanside Unified School District.

On October 1, 2015, District filed a Motion to Dismiss Student’s Issue Seven, alleging that Issue Seven alleges claims of violations of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and Section 1983 of Title 42 United States Code.

Student filed no opposition to District’s Motion to Dismiss Issue Seven.

APPLICABLE LAW AND DISCUSSION

The purpose of the Individuals with Disabilities Education Act (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.)

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

Student's Issue Seven alleges violations of Section 504 and 1983, and is therefore dismissed from Student's amended complaint as OAH does not have jurisdiction over these claims.

ORDER

District's Motion to Dismiss is granted as to Student's Issue Seven. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

DATE: October 16, 2015

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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings