

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LIVERMORE VALLEY JOINT UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2015050329

ORDER GRANTING DISTRICT'S
PARTIAL MOTION TO DISMISS
ISSUE FIVE OF STUDENT'S
COMPLAINT

On April 30, 2015, Student a Request for Due Process Hearing (complaint), naming Livermore Valley Joint Unified School District.

On June 8, 2015, District filed a Motion to Dismiss Student's Issue Five, alleging that violation of Section 504 of the Rehabilitation Act of 1973 is beyond the jurisdiction of the Office of Administration.

OAH received no response to the Motion to Dismiss from Student.

APPLICABLE LAW

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.).

ORDER

1. District's Motion to Dismiss as to Issue Five of Student's complaint is granted.
2. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

DATE: June 26, 2015

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings