

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015100373

ORDER GRANTING MOTION TO
DISMISS

On October 19, 2015, Irvine Unified School District (Irvine) filed a motion to dismiss Student's issue number five on the grounds OAH does not have jurisdiction over claims based upon Section 504 of the Rehabilitation Act. No opposition was received.

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" (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.)

Student's complaint alleges Irvine violated the provisions of Section 504 of the Rehabilitation Act. 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.). Accordingly, Irvine's Motion to Dismiss issue five is granted. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

DATE: October 28, 2015

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings