

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015100606

ORDER GRANTING DISTRICT'S
MOTION TO DISMISS ISSUES 11
AND 12

Student filed a first amended complaint on February 9, 2016, naming the Irvine Unified School District. On February 19, 2016, District filed a motion to dismiss issues 11 and 12 of the amended complaint. District contends the matters raised in those issues are beyond the jurisdiction of the Office of Administrative Hearings.

Student has not filed an opposition or other response to District's motion.

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 other federal statutes such as Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 701 et seq.) or the Americans with Disability Act (ADA) (Title 42 U.S.C. §§ 12101, et seq.)

DISCUSSION AND ORDER

In issue 11 of her complaint, Student alleges that District discriminated against her in violation of Section 504 and in violation of the ADA, by denying her equal access and an opportunity to participate in and benefit from a public program, as required by federal law. In issue 12, Student alleges that District failed to ensure that she received educational services with reasonable accommodations to allow her to benefit from her education, in violation of the ADA.

OAH does not have jurisdiction to consider claims under either Section 504 or the ADA. District's motion to dismiss issues 11 and 12 of Student's amended complaint is granted. This matter shall proceed as scheduled as to the remaining issues raised in Student's amended complaint.

IT IS SO ORDERED.

DATE: March 1, 2016

DocuSigned by:

Darrell Lepkowsky

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DARRELL LEPKOWSKY

Administrative Law Judge

Office of Administrative Hearings