

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOUTHERN KERN UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015110688

ORDER GRANTING MOTION TO
DISMISS ISSUE 2 IN STUDENT'S
AMENDED COMPLAINT

On January 21, 2016, Southern Kern Unified School District filed a motion to dismiss Issue 2 in Student's amended complaint asserting that the Office of Administrative Hearings lacks jurisdiction over the claim. Student did not submit a response to Kern's motion to dismiss.

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 arising under Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 701 et seq.)

DISCUSSION

Student's Issue 2 raises claims arising solely under Section 504. Because OAH does not have jurisdiction over these claims, the issue dismissed for lack of jurisdiction.

ORDER

1. Kern's motion to dismiss Issue 2 in Student's amended complaint is granted.
2. All dates to remain on calendar.

IT IS SO ORDERED.

DATE: January 28, 2016

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings