

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. 2016020106

ORDER GRANTING MOTION TO
DISMISS ISSUES BEYOND THE
JURISDICTION OF THE OFFICE OF
ADMINISTRATIVE HEARINGS

On January 26, 2016, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming Irvine Unified School District. On February 5, 2016, Irvine filed a motion to dismiss, alleging that the complaint raises issues beyond the jurisdiction of OAH. 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 (Section 504) (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code (Section 1983), or the Americans with Disability Act (ADA) (Title 42 U.S.C. §§ 1201, et seq.).

DISCUSSION

Irvine asserts that Student's complaint seeks relief under Section 504, the ADA and Section 1983. Irvine contends that Student's Section 504, ADA and Section 1983 claims fall outside the scope of the IDEA and therefore are outside of OAH's jurisdiction and should be dismissed.

In Issue One of Student's complaint, Student contends that Irvine violated the IDEA, Section 504, the ADA, Section 1983, and all related state laws and denied Student a free appropriate public education by failing to develop a comprehensive individualized education program and offer appropriate placement and services. In the complaint's closing paragraph, Student states that she includes claims of Irvine's violations of Section 504, the ADA, and Section 1983 to provide Irvine with "reasonable notice of all claims that may be pursued, to pursue any administrative remedy available and facilitate comprehensive alternative dispute resolution." Student also "acknowledges the limited jurisdiction of the OAH."

Because OAH lacks jurisdiction to entertain claims based on Section 504, the ADA or Section 1983, to the extent Student is raising claims under these laws, they are dismissed.

ORDER

Irvine's motion to dismiss is granted as to all issues arising under Section 504, the ADA and Section 1983. The matter will proceed as scheduled as to the remaining issues related to the IDEA or Education Code section 56000 et seq.

IT IS SO ORDERED.

DATE: March 1, 2016

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LISA LUNSFORD
Administrative Law Judge
Office of Administrative Hearings