

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011040670

ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
DISMISS

On May 11, 2011, Tania L. Whiteleather, attorney for Student, filed an Amended Due Process Hearing Request¹ (amended complaint) naming Saddleback Valley Unified School District. (District).

On May 19, 2011, Epiphany Owen, attorney for Saddleback Valley Unified School District (District) filed a Motion to Dismiss (Motion) and a Notice of Insufficiency². The Office of Administrative Hearings (OAH) did not receive a response from Student.

APPLICABLE LAW

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

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 United States Code section 1415(b)(7)(A).

² The Notice of Insufficiency is addressed by separate order.

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.), the Americans with Disabilities Act (ADA) or state civil rights.

DISCUSSION

District argues that OAH does not have jurisdiction to hear Student's complaint.

Student raises two claims against District in her complaint, as follows:

Issue No. 1: Whether the District has failed to timely provide Student and her parents with requested copies of all of Student's educational records.

Student then provides an explanation that the District denying access to all educational records prevents Parents from having sufficient information to participate in the educational decision making process for their daughter. This is related to the identification, evaluation, or educational placement of the child, or the provision of a FAPE to such child. Accordingly, OAH has jurisdiction to hear this issue and District's Motion to Dismiss Issue No. 1 is denied.

Issue No. 2: Whether the actions of the District, in failing to comply with the procedural and substantive mandates of IDEA, and in other actions, have denied Student and her parents their rights under the ADA, section 504 and state civil rights.

OAH does not have jurisdiction to entertain claims based on the ADA, section 504 or state civil rights. Accordingly, District's Motion to Dismiss Issue 2 is granted.

ORDER

District's Motion to Dismiss is granted as to Issue No. 2 only.

Dated: May 20, 2011

/s/

MICHAEL G. BARTH
Administrative Law Judge
Office of Administrative Hearings