

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. 2012031156

ORDER GRANTING MOTION TO
DISMISS

On March 28, 2012, Student filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) naming District as the respondent. Student's complaint states four issues regarding denial of a free appropriate public education (FAPE) by: (1) failing to appropriately assess Student; (2) failing to comply with applicable law governing the required content of Student's individualized educational programs (IEP's); (3) providing untrained personnel and designing an inappropriate program and services; and (4) failing to implement Student's IEP's. After stating these issues, the complaint states a "Summary" of "Issues and Proposed Resolutions" in which Student makes further claims arising out of alleged violations of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and Section 1983 of Title 42 United States Code.

On April 6, 2012, District filed a Motion to dismiss those claims for lack of jurisdiction. OAH has received no response from Student.

APPLICABLE LAW AND DISCUSSION

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.)

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.) or Section 1983 of Title 42 United States Code. Therefore Student's claims arising thereunder are dismissed.

ORDER

1. District's Motion is granted. Student's claims arising out of alleged violations of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and Section 1983 of Title 42 United States Code are dismissed.
2. The matter will proceed as scheduled as to the remaining issues.

Dated: April 12, 2012

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings