

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FOUNTAIN VALLEY SCHOOL
DISTRICT.

OAH CASE NO. 2014010608

ORDER GRANTING MOTION TO
DISMISS ISSUE

On January 16, 2014, Student filed a Due Process Hearing Request¹ (complaint) naming Fountain Valley Unified School District (District) as the respondent. The complaint stated, as Issue Four, an alleged violation of state and federal equal protection and discrimination laws. On February 4, 2014, District filed a Motion to Dismiss Issue Four (Motion). On February 5, 2014, Student filed a Non-opposition to District's Motion. As discussed below, the Motion is granted, and Issue Four is dismissed.

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.)

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).

Here, Student's Issue Four, alleging violations of state and federal equal protection and discrimination laws, is outside OAH's jurisdiction. Therefore Issue Four is dismissed.

ORDER

District's Motion to Dismiss is granted as to Issue Four. The matter will proceed as scheduled as to the remaining issues.

DATE: February 07, 2014

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings