

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014100253

ORDER GRANTING PARTIAL
MOTION TO DISMISS SECTION 504
AND SECTION 1983 CLAIMS

Student filed an amended request for due process (amended complaint) on October 17, 2014. District filed a partial motion to dismiss the amended complaint on the grounds OAH is without jurisdiction over claims based upon Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, and related laws and statutes. Student did not oppose the motion. The amended complaint concedes OAH does not have jurisdiction over these claims. The amended complaint alleges it is “customary practice” for OAH to dismiss claims based on Section 504 and Section 1983, and alleges it is Student’s “intent to exhaust all such claims” because there is a “significant overlap between the IDEA and Section 504 claims” that gives rise to violations of Section 1983.

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. An “overlap” in facts does not confer jurisdiction. Accordingly, Student’s claims for violation of Section 504 and Section 1983 are dismissed. The matter will proceed as scheduled solely on the IDEA-related remaining issues.

IT IS SO ORDERED.

DATE: November 06, 2014

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings