

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

PLEASANTON UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2014120627

ORDER GRANTING PARTIAL  
MOTION TO DISMISS

On December 3, 2014, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint), naming Pleasanton Unified School District as the respondent.

On December 15, 2014, Pleasanton filed a Partial Motion to Dismiss, alleging that OAH lacks jurisdiction to hear Issue 10.

OAH did not receive a response to the motion 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 (29 U.S.C. § 701 et seq.), the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), and Section 1983 of Title 42 United States Code.

#### DISCUSSION

Issue 10 of Student's complaint alleges that Pleasanton has violated Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. In the complaint, Student admits that Issue 10 is being asserted for the purpose of exhaustion. Student states that Student "anticipates that OAH, upon review of the complaint or following a motion by Respondents will dismiss the issue." As stated above, OAH lacks jurisdiction to hear claims under Section 504 or the ADA.

#### ORDER

Pleasanton's Partial Motion to Dismiss as to Issue 10 is granted. Issue 10 is hereby dismissed.

IT IS SO ORDERED.

DATE: December 19, 2014

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/s/  
ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings