BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

OROVILLE CITY ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2021030708

ORDER GRANTING MOTION TO DISMISS SECTION 504 AND ADA CLAIMS FOR LACK OF JURISDICTION

APRIL 12, 2021

On March 19, 2021, Student filed a request for due process hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Oroville City Elementary School District. The Office or Administrative Hearings is referred to as OAH.

On April 6, 2021, Oroville filed a motion to dismiss alleging OAH lacks jurisdiction to adjudicate certain issues alleged in the complaint. No opposition has been received.

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).) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), also called Section 504, or the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.), also called the ADA.

DISCUSSION

Student alleges seventeen issues, which are confusingly numbered 1, 2, 3, 4, 5, 6, 7, 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10. The seventeenth issue, which is labeled Issue 10, alleges that Oroville discriminated against him and violated Section 504 and the ADA by failing to offer him the same hybrid instruction and bus access that was offered to nondisabled peers when it did not accept the mask waiver submitted by Student's grandmother and signed by Student's doctor from November 6, 2020 through January 25, 2021. Oroville asserts OAH lacks jurisdiction over these claims.

OAH does not have jurisdiction to resolve these claims. Accordingly, the seventeenth issue, labeled Issue 10 in the complaint, is dismissed.

ORDER

1. Oroville's motion to dismiss Student's Section 504 and ADA claims is granted.
2. Student's seventeenth issue, labeled Issue 10 in the complaint, is dismissed. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings