BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. YUBA CITY UNIFIED SCHOOL DISTRICT AND SUTTER COUNTY SUPERINTENDENT OF SCHOOLS	OAH CASE NO. 2013120207
YUBA CITY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013110182 ORDER GRANTING MOTION TO DISMISS ISSUES

On December 20, 2013, the Office of Administrative Hearings (OAH) granted Sutter County Superintendent of Schools' (County) motion to dismiss all issues in Student's Case based on the allegations that County violated Student's rights under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq. (ADA)), Title V of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. (Section 504)) and 42 United States Code section 1983 (Section 1983) for lack of jurisdiction. OAH granted the request as to County only, but not as to District because it was not a party to that motion.

On December 13, 2013, in its own Motion to Dismiss Issues (motion), District has requested that all issues relating to any allegations that District violated the ADA, Section 504, and Section 1983 should be dismisses against it as well, because the issues remain outside of OAH's limited jurisdiction. No response or opposition has been received from Student, or County.

APPLICABLE LAW

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.)

DISCUSSION

Student's complaint alleges that District and County through various actions denied him a FAPE under the IDEA, as well as under the ADA, Section 504 and Section 1983. OAH does not have jurisdiction to hear claims brought under the ADA, Section 504 or Section 1983. Accordingly, District's motion to dismiss those issues in Student's complaint alleging violations under the ADA, Section 504 or Section 1983 is granted.

ORDER

1. District's motion to dismiss all issues relating to alleged violations under the ADA, Section 504 and Section 1983 is granted.

2. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Dated: December 23, 2013

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings