

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CLOVIS UNIFIED SCHOOL DISTRICT
AND FRESNO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012120812

ORDER GRANTING MOTION TO
DISMISS SPECIFIC CLAIMS

On December 19, 2012, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH), naming the Clovis Unified School District (Clovis) and Fresno Unified School District (Fresno). On December 31, 2012, Fresno filed a Motion to Dismiss specific claims against both school districts for being outside the scope of OAH's jurisdiction. Student and Clovis did not file a response.

APPLICABLE LAW, DISCUSSION and ORDER

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.) (Section 504) and Section 1983 of title 42 United States Code (Section 1983).

In the present matter, Student alleges in each of the six issues for hearing that both school districts violated Section 504 and Section 1983, which OAH does not have jurisdiction to hear. Accordingly, all claims that the school districts violated Section 504 and Section 1983 are dismissed, and the matter shall proceed as to the other claims in Student's Issues 1 through 6.

IT IS SO ORDERED.

Dated: January 10, 2013

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings