

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2009020258

ORDER GRANTING MOTION TO
DISMISS ISSUES TWO AND THREE
IN DUE PROCESS COMPLAINT

On February 6, 2009, Parent on behalf of Student, filed with the Office of Administrative Hearings, Special Education Division (OAH), a Request for Mediation and Due Process Hearing (Complaint) which named Saddleback Valley Unified School District (District) as the respondent.

On February 17, 2009, the District filed with OAH a Motion to Dismiss Issues Nos. Two and Three. Student has not filed a response to this motion.

In Issue No. Two of the Complaint, Student alleges that the District has violated Section 504 and the ADA. Section 504 refers to a claim under the Rehabilitation Act (29 U.S.C. § 794) and ADA refers to the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.). In Issue No. Three of the Complaint, Student alleges that the District has violated Student's civil rights. OAH does not have the authority to hear and decide the claims in Issue Nos. Two and Three in Student's Complaint. (*Wyner v. Manhattan Beach Unified School District* (9th Cir. 2000) 223 F.3d 1026, 1029; *Miller v. San Mateo-Foster City Unified School District* (N.D.Cal. 2004) 318 F.Supp.2d 851, 857.) Accordingly, the District's Motion to Dismiss shall be granted.

ORDER

1. The Motion to Dismiss Issue Nos. Two and Three brought by Saddleback Valley Unified School District is granted, and such issues in Student's Request for Mediation and Due Process Hearing are hereby dismissed.

It is so ordered.

Dated: February 26, 2009

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings