BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. OAKDALE JOINT UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2011090214 ORDER GRANTING MOTION TO DISMISS

On September 6, 2011, Student filed a Request for Due Process Hearing (complaint). On September 15, 2011, District filed a "Motion to Strike Due Process Complaint." On September 20, 2011, Student filed an Opposition. As discussed below, the Motion to Strike is treated as a Motion to Dismiss, and is granted. The complaint is dismissed in its entirety.

APPLICABLE LAW

The purpose of the IDEA is to ensure that all children with disabilities have available to them a 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.) 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 1983 of Title 42 United States Code, or the Americans with Disabilities Act.

DISCUSSION

Student's complaint states four claims, all arising under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, or the Americans with Disabilities Act. OAH does not have jurisdiction to entertain

these claims. Therefore District's Motion to Strike is treated as a Motion to Dismiss, and is granted. The complaint is dismissed in its entirety.[1]

ORDER

District's Motion to Dismiss is granted. All dates are vacated.

Dated: September 21, 2011

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings

[1] District's Motion raises five separate grounds for dismissal. Only the first ground, lack of jurisdiction, is addressed herein. The parties' arguments concerning District's second through fifth grounds for dismissal have not been considered, and are not determined in this Order.