

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

YUBA CITY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013120207

ORDER GRANTING SUTTER
COUNTY SUPERINTENDENT OF
SCHOOLS' MOTION TO DISMISS

On December 11, 2013, the Sutter County Superintendent of Schools (SCSOS) filed a partial motion to dismiss, seeking dismissal of that portion of each of Student's claims alleging that SCSOS 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). No opposition has been received.

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 the Office of Administrative Hearings (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 SCSOS, by their actions in not providing a FAPE to Student, not only denied Student his rights under the IDEA, but also 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, SCSOS's motion to dismiss those portions of Student's claims arising under the ADA, Section 504 or Section 1983 is granted.

ORDER

1. Sutter County Superintendent of Schools' motion to dismiss those portions of Student's claims arising under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 and 42 United States Code section 1983 is granted.

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

Dated: December 20, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings