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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 **A.A. and L.A. on behalf of A.A., Jr.,**

9 **Plaintiffs**

10 **v.**

11 **CLOVIS UNIFIED SCHOOL DISTRICT,**
12 **CLOVIS SELPA, MARY BASS in her**
13 **personal and official capacities as SELPA**
14 **ADMINISTRATOR and DIRECTOR OF**
15 **SPECIRAL EDUCATION FOR CLOVIS**
16 **USD,**

17 **Defendants**

CASE NO. 1:13-CV-1043 AWI SMS

ORDER GRANTING MOTION TO
DISMISS

(Doc. 38)

16 The prior order granted in part and denied in part Defendants' motion to dismiss the First
17 Amended Complaint on July 14, 2014. Doc. 38. Plaintiffs were granted leave to amend the
18 seventh and eighth causes of action (intentional infliction of emotional distress and negligence)
19 against Defendant Bass in her personal capacity; Plaintiffs were required to make additional
20 allegations with respect to California Tort Claims Act presentment requirements. If Plaintiffs
21 wished to amend, they had to file a new complaint within sixty days. No amended complaint has
22 been filed and Defendants moved to have these claims dismissed with prejudice. Doc. 38.
23 Plaintiffs have filed no opposition to the motion. When a party fails to amend a claim dismissed
24 without prejudice after being given the opportunity to do so, dismissal of the claim with prejudice
25 may be appropriate. See Toyota Landscape Co., Inc. v. Building Material & Dump Truck Drivers
26 Local 420, 726 F.2d 525, 528 (9th Cir. 1984).

27 Defendants' motion is GRANTED.

28 The intentional infliction of emotional distress and negligence claims against Defendant

1 Bass in her personal capacity are DISMISSED WITH PREJUDICE.

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3 IT IS SO ORDERED.

4 Dated: November 18, 2014



5 SENIOR DISTRICT JUDGE

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