BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
STATE OF CALIFORNIA

In the Matter of: STUDENT, Petitioner, vs. BUENA PARK SCHOOL DISTRICT, Respondent.	OAH No. 2006010294 **ORDER GRANTING RESPONDENT'S MOTION TO DISMISS**

On April 19, 2006, Ellen Bacon, attorney on behalf of Petitioner, Student, filed a due process hearing request with the Office of Administrative Hearings, Special Education Division (OAH). On May 1, 2006, Lyndsy Rutherford, attorney on behalf of Respondent, Buena Park School District (District), filed a motion to dismiss (motion). On May 9, 2006, Student timely filed opposition to the District's motion.

APPLICABLE LEGAL FRAMEWORK

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400, et. seq.)[1] 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), & (C); see also Educ. Code, § 56000.) Nothing in the IDEA is to be construed "to restrict or limit the rights, procedures, and remedies available . . ." (§ 1415(l).)

The enforceability of settlement agreements is based on familiar and well-established principles of contract law. (*Miller v. Fairchild Indus*. (9th Cir. 1986) 797 F.2d 727, 733; see also *Jeff D. v. Andrus* (9th Cir. 1990) 899 F.2d 753, 759.) If a written agreement is not equivocal or ambiguous, "the writing or writings will constitute the contract of the parties, and one party is not permitted to escape from its obligations by showing that he did not intend to do what his words bound him to do."

[1] All statutory references are to Title 20 of the United States Code, unless specifically noted otherwise.

(*Brant v. California Dairies, Inc.* (1935) 4 Cal.2d 128, 134; see also 1 Witkin, Summary of Cal. Law, Contracts, § 89 [Ordinarily, one who accepts or signs an instrument, which on its fact is a contract, is deemed to assent to all its terms . . . .”]; cf. *Skrbina v. Fleming Co., Inc.* (1996) 45 Cal.App.4th 1353, 1368 [releases must be “clear, explicit and comprehensible in each of their essential details”].) By entering into a settlement agreement, each party agrees to “extinguish those legal rights it sought to enforce through litigation in exchange for rights secured by the contract.” (*Village of Kaktovik v. Watt* (D.C.Cir. 1982) 689 F.2d 222, 230.) In addition, parties may waive claims that, at the time of the settlement agreement, are unknown to them. (Civ. Code, § 1542.)

Furthermore, the jurisdiction of OAH to hear due process claims under the IDEA is limited. (Educ. Code § 56501, subd. (a) [proposal or refusal to initiate or change the identification, assessment, or educational placement of a child, or the provision of a FAPE to a child, or 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 district as to the availability of a program appropriate for a child].) This limited jurisdiction does not include a school district’s alleged failure to comply with a settlement agreement. (*Wyner v. Manhattan Beach Unified School Dist*. (9th Cir. 2000) 223 F.3d 1026, 1030.) In *Wyner*, during the course of a due process hearing the parties reached a settlement agreement in which the district agreed to provide certain services. The hearing officer ordered the parties to abide by the terms of the agreement. Two years later, the student initiated another due process hearing, and raised, inter alia, six issues as to the school district’s alleged failure to comply with the earlier settlement agreement. The California Special Education Hearing Office (SEHO), OAH’s predecessor in hearing IDEA due process cases, found that the issues pertaining to compliance with the earlier order were beyond its jurisdiction. This ruling was upheld on appeal. The *Wyner* court held that “the proper avenue to enforce SEHO orders” was the California Department of Education’s compliance complaint procedure (Cal. Code Regs., tit. 5, § 4600, et. seq.), and that “a subsequent due process hearing was not available to address . . . alleged noncompliance with the settlement agreement and SEHO order in a prior due process hearing.” (*Wyner, supra*, 223 F.3d at p. 1030.)

DISCUSSION

The District’s motion asserts that, on December 17, 2005, in case number N2005080696, the Student entered into a settlement agreement (agreement) with the District that resolved all claims until November 30, 2006. The District submitted a copy of the agreement with its motion. The Student concedes that he entered into the agreement, but asserts that he is at least entitled to a trial as to the enforceability of the agreement.

In the "Recitals" portion of the agreement, Section (b) notes that, as to case number N2005080696, the operative pleading is the Second Amended Due Process Request, filed and served on November 4, 2005; section (C) states, "The Parties have settled any and all outstanding Disputes and the Action, and have further agreed upon an educational placement and services for the Student, which both Parties agree constitutes a FAPE."

The "Recitals" portion is incorporated in the "Agreement" portion, after which the agreement states, "TERM OF THE AGREEMENT. The Parties acknowledge that the Agreement shall cover the Respondents' educational obligations to the Student through November 30, 2006." Section 4 of the "Agreement" portion of the SA states:

> The Settlement Amount shall constitute full and final settlement of all claims for attorneys' fees and legal costs incurred in connection with the Disputes, the Action, and any and all other educationally-related fees or costs through November 30, 2006. The PETITIONERS specifically waive any right or claim to any additional attorneys' fees or legal or educational costs with respect to the Disputes and the Action addressed in this Agreement based on the IDEA . . . .

Section 5A of the "Agreement" portion states, "Parents agree that the placement and services offered herein constitute a FAPE through November 30, 2006."

In Section 7A, "Release," the agreement states:

> As further consideration of this Agreement, it is the express and understood intent, purpose, desire and agreement of the Parties that the Parties shall, and hereby do, release and forever discharge one another . . . of and from any and all educationally[-] based claims, demands, actions or causes of action of every kind and character, known or unknown, which they may now have in connection with or arising out of the Student's education through November 30, 2006. Included specifically, without limitation, in this release are (1) a release of any obligation by the District to provide any educational services, or reimbursement for any educational services . . . through November 30, 2006, other than those expressly set forth herein; . . . and (4) a release of any procedural or substantive violation of IDEA or any other provision of educationally-based law, which may have occurred to date or which may occur as a result of this Agreement. The claims released hereby are hereinafter referred to as the "Released Claims."

In the next portion of the agreement, Section 7B, "Section 1542 Waiver,"[2] the parties agreed to "expressly waive and release . . . to the fullest extent . . ." their rights and claims under the agreement. Any alteration, change, or modification of the agreement was to be made in writing and signed by each party in order to be effective. The form of the agreement was approved by the lawyers for the parties, and all the parties signed the agreement.

In this matter, the Student alleges that he requires a 1:1 aide on a full-time basis "to benefit from his education." But the language of the agreement is clear. The terms of the agreement clearly indicate that the parties agreed to release and waive all claims, including potential future claims, through November 30, 2006, in exchange for the terms set forth in the agreement. Moreover, the Student's parents explicitly agreed that the terms of the agreement constituted a FAPE through November 30, 2006. Furthermore, as noted, *supra*, OAH does not have jurisdiction over any claims regarding a school district's alleged noncompliance with a settlement agreement. Therefore, this matter, which involves a dispute over one of the terms of the agreement, a "Released Claim" under the terms of the agreement, must be dismissed.

For all these reasons, the District's motion to dismiss is GRANTED.

IT IS SO ORDERED, this ___ day of May, 2006.

_____
JOHN A. THAWLEY
Administrative Law Judge
Special Education Division
Office of Administrative Hearings

[2] Civil Code section 1542, titled "Certain claims not affected by general release," provides, "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if know by him must have materially affected his settlement with the debtor."