

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2010031461

ORDER GRANTING DISTRICT'S
PARTIAL MOTION TO DISMISS AND
LIMIT CLAIMS

On March 19, 2010, attorney Kathleen M. Loyer filed with the Office of Administrative Hearings (OAH) a due process hearing request (Complaint) on behalf of Student naming the Irvine Unified School District (District) as the respondent.

On March 29, 2010, attorney S. Daniel Harbottle filed on behalf of District a Notice of Representation, Motion to Dismiss in Part, and Response to Due Process Complaint (District's Motion). District's Motion contends that OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (Section 504) and 42 U.S.C. section 1983 (Section 1983) and that Student is precluded from claiming any relief on claims prior to a May 20, 2009 Settlement Agreement.

OAH has received no response from Student to District's Motion.

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 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 and Section 1983.

OAH does not have jurisdiction over claims seeking to enforce settlement agreements. The IDEA and the Education Code unambiguously assign jurisdiction for disputes regarding settlement agreements to federal courts and state courts of competent jurisdiction. The IDEA, and its implementing regulations, provides that settlement agreements resulting from mediation, or reached by the parties on their own through a resolution session, must result in a written agreement that is enforceable in any State court of competent jurisdiction or in a district court of the United States. (20 U.S.C. § 1415 (f)(1)(B)(iii), (e)(2)(F); 34 C.F.R. § 300.506(b)(6), (7) [mediations]; 34 C.F.R. § 300.510(d) [resolution sessions].)

DISCUSSION

In the present matter, Student contends that District has violated the IDEA, and Section 504 and Section 1983 with respect to seven issues. Generally, Student alleges that District failed to assess Student in all areas of suspected disability and offer Student accommodations, modifications and services to meet his special needs. Student explains that he included violations of Section 504 and Section 1983 in his Complaint to provide District with notice of all claims and to exhaust administrative remedies. In summarizing the issues in his Complaint, Student acknowledges and stipulates to the limited jurisdiction of OAH without need for formal motion. Therefore, the parties are in agreement that OAH does not have jurisdiction as to the Section 504 and Section 1983 claims.

In his statement of facts Student acknowledges that on May 20, 2009, he and District signed a confidential settlement agreement. In addition, the Complaint does not challenge the settlement agreement or its enforcement, and there is no specific time frame alleged in issues one through five. District contends that because of the settlement agreement all claims prior to May 20, 2009 must be dismissed. Because Student entered into a settlement agreement with District and has not challenged its enforcement, the settlement agreement bars Student from litigating issues prior to May 20, 2009.

ORDER

1. Student's Section 504 and Section 1983 claims are dismissed.
2. The May 20, 2009 settlement agreement bars Student from litigating issues prior to May 20, 2009.

3. The matter shall proceed as scheduled as to the remaining issues.

It is so ordered.

Dated: April 05, 2010.

/s/

CLARA SLIFKIN
Administrative Law Judge
Office of Administrative Hearings