

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

ROWLAND UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010040786

ORDER GRANTING IN PART AND  
DENYING IN PART MOTION TO  
DISMISS

On April 13, 2010, Parent, on behalf of Student, filed a Request for Mediation and Due Process Hearing (complaint) against the Rowland Unified School District (District).

On April 19, 2010, District filed a Motion to Dismiss on the ground that Student's claims are barred by a settlement agreement between the parties. The Office of Administrative Hearings (OAH) has not received a response from Student.

APPLICABLE LAW

Parents have 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 [FAPE] to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) OAH has jurisdiction to hear due process claims arising under the Individuals with Disabilities Education Act (IDEA). (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

Settlement agreements are interpreted using the same rules that apply to interpretation of contracts. (*Vaillette v. Fireman's Fund Ins. Co.* (1993) 18 Cal.App.4th 680, 686, citing *Adams v. Johns-Manville Corp.* (9th Cir. 1989) 876 F.2d 702, 704.) "Ordinarily, the words of the document are to be given their plain meaning and understood in their common sense; the parties' expressed objective intent, not their unexpressed subjective intent, governs." (*Id.* at p. 686.) If a contract is ambiguous, i.e., susceptible to more than one interpretation, then extrinsic evidence may be used to interpret it. (*Pacific Gas & Electric Co. v. G. W. Thomas Drayage & Rigging Co.* (1968) 69 Cal.2d 33, 37-40.) Even if a contract appears to be unambiguous on its face, a party may offer relevant extrinsic evidence to demonstrate that the contract contains a latent ambiguity; however, to demonstrate an ambiguity, the contract must be "reasonably susceptible" to the interpretation offered by the party introducing extrinsic evidence. (*Dore v. Arnold Worldwide, Inc.* (2006) 39 Cal.4th 384, 391, 393.)

## DISCUSSION

Student raises two issues against District in his complaint, as follows:

- (1) District failed to assess Student's social development during the 2008-2009 school year (SY).
- (2) The March 31, 2010 individualized education program (IEP) fails to offer Student a FAPE for the 2010-2011 SY because it does not address his core deficits.

Within the body of the complaint describing the alleged problems, Student requests separate remedies for each issue. With respect to Issue No. 1, Student requests reimbursement for private assessment and training in the "Son-Rise Program," obtained on August 31, 2009 through September 4, 2009.<sup>1</sup> With respect to Issue No. 2, Student requests continued placement in his "Son-Rise Program" for the 2010-2011 SY. Within the proposed resolution section of the complaint Student again requests reimbursement for the privately obtained assessment and training. However, Student does not specify whether the proposed resolution is applicable to a particular issue.

District requests that Student's complaint be dismissed because Student released all claims against District for the 2008-2009 and 2009-2010 SYs as of the date of the fully executed settlement agreement (agreement), dated July 30, 2009. A copy of the agreement is attached to District's motion. The release language in the agreement is clear. Student waived and released all claims for the 2009-2010 SY. However, the release of claims does not extend to the 2010-2011 SY.

With respect to Issue No. 1, Student has alleged a failure to assess during the 2008-2009 SY, a time period covered by the waiver language in the July 30, 2009 agreement. Accordingly, the claim is barred by the agreement and District's motion to dismiss Issue No. 1 is granted.

With respect to Issue No. 2, Student has alleged a denial of FAPE based upon the March 30, 2009 IEP, as it applies to the 2010-2011 SY. The 2010-2011 SY is not covered by the July 30, 2009 agreement. Accordingly, the claim is not barred by the agreement and District's motion to dismiss is denied.

With respect to the proposed resolution section of the Student's complaint, he fails to specify whether the requested remedy applies solely to Issue No. 1 or whether he seeks it as a remedy to the denial of FAPE alleged in Issue No. 2. However, a complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at

---

<sup>1</sup> The dates for the assessment and training were determined through documentation submitted with District's motion.

the time.<sup>2</sup> A proposed resolution is neither a “claim” nor a “cause of action,” and therefore, does not fall within the waiver and release language of the agreement between the parties. Accordingly, District’s motion to dismiss the proposed resolution is denied. Student may clarify his proposed resolution if he seeks a more specific remedy for the alleged denial of FAPE for the 2010-2011 SY.

ORDER

District’s Motion to Dismiss is granted as to Issue No. 1. The matter will proceed as scheduled as to the remaining issue.

Dated: April 27, 2010

/s/

---

BOB VARMA  
Administrative Law Judge  
Office of Administrative Hearings

---

<sup>2</sup> 20 U.S.C. §1415(b)(7)(A)(ii)(IV).